

MIAMI BEACH

City Commission Meeting SUPPLEMENTAL MATERIAL 1

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
July 13, 2016

Mayor Philip Levine
Commissioner John Elizabeth Alemán
Commissioner Ricky Arriola
Commissioner Michael Grieco
Commissioner Joy Malakoff
Commissioner Kristen Rosen Gonzalez
Commissioner Micky Steinberg

City Manager Jimmy L. Morales
City Attorney Raul J. Aguila
City Clerk Rafael E. Granado

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

SUPPLEMENTAL AGENDA

C7 - Resolutions

- C7L A Resolution Accepting The Recommendation Of The City Manager To Reject All Proposals Received, Pursuant To Request For Qualifications (RFQ) No. 2016-107-WG For Hosted Automatic Call Distribution Services; And, In The Alternative, Accepting The City Manager's Recommendation To Waive, By A 5/7th Vote, The Competitive Bidding Requirement, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The Administration To Enter Into Direct, Simultaneous Negotiations With AT&T Corp And Unify, Inc, Respectively, For Hosted Automatic Call Distribution Services; And Further Directing The Administration To Submit The Final Negotiated Agreement To The Mayor And City Commission For Approval.
(Procurement/Finance)
(Revised Memorandum & Resolution)

C7 - Resolutions

- C7T A Resolution Approving And Authorizing The City Manager To Execute A Landlord Waiver, Substantially In The Form Attached To This Resolution, In Favor Of Bank Of America, Involving The Lease Agreement Between The City (Landlord) And The Miami City Ballet, Inc. (Tenant) For The Building Located At 2200 Liberty Avenue, Miami Beach, Florida (Premises); Said Waiver Subordinating The City's Statutory Lien Rights Against The Personal Property In The Premises (In The Event Of A Default Under The Lease); And Which Waiver Is Being Required By Bank Of America, As Security For A Revolving Line Of Credit, Having A Limit Of \$1,500,000, Which Is Being Secured By The Tenant's Collateral, Which Includes The Personal Property In The Premises.
(Tourism, Culture & Economic Development)
(Resolution & Attachment)

R5- Ordinances

- R5R An Ordinance Amending The Miami Beach Human Rights Ordinance (Ordinance No. 2010-3669), By Amending Chapter 62, Entitled "Human Relations," By Amending Article II, Entitled "Discrimination," By Amending Divisions 1-4, Entitled "Generally," "Administration," "Regulations," And "Exceptions," By Amending Sections 62-31, Entitled "Definitions;" 62-33, Entitled "Purpose; Declaration Of Policy;" 62-37, Entitled "Duties And Powers;" 62-59, Entitled "Information On Complaint;" 62-86, Entitled "Discrimination In Employment;" 62-87, Entitled "Discrimination In Public Accommodations;" 62-88, Entitled "Discrimination In Housing;" 62-88.1, Entitled "Discrimination In Public Services;" 62-90, Entitled "Municipal Facilities;" 62-91, Entitled "Municipal Funds;" 62-111, Entitled "Employment;" And 62-112, Entitled "Housing;" To Amend The Protected Classes Within The Ordinance To Include The Following Categories: Ancestry, Height, Weight, Domestic Partner Status, Labor Organization Membership, Familial Situation, And Political Affiliation; And By Amending Sections Those Same Additional Categories And To Provide That The Human Rights Ordinance Shall Apply To Actual And Perceived Membership In A Protected Class; And Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**
(Sponsored by Commissioner John Elizabeth Alemán)
(Office of the City Attorney)
(Memorandum & Resolution)

R7 - Resolutions

- R7K A Resolution Authorizing A Change Order To The Purchase Order Issued To David Mancini And Sons, Inc. (DMSI), Under The 63rd Street Water Main Replacement Project Awarded Under The NJPA Agreement With Gordian Group, Pursuant To Contract FL-MDSAU06-052014-DMS, In The Amount Of \$101,287.58, In Order To Provide Expanded Traffic Control Services For Traffic Flow In The Area During The Execution Of The Work, Of Which \$40,107.58 Shall Be Payable From The Project Contingency, And The Balance Of \$61,180.00 Shall Be Payable From Account 424-2759-069357 Entitled "63rd Street 16" Water Main."
(Public Works)
(Memorandum & Resolution)

R7 - Resolutions

R7X A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Committee (FCWP), And Approving A Ninety (90) Day Pilot Program For The Televising Of Special Master Hearings For Short-Term Rentals; And Authorizing The City Manager To Direct The Communications Department To Televising The Special Master Hearings Pertaining Solely To Short-Term Rental Violations Cited Pursuant To Sections 142-109, 142-905 And 142-1111 Of The Miami Beach Code Of Laws And Ordinances For The Duration Of The Pilot Program Of Ninety Days.

(Sponsored by Commissioner John Elizabeth Alemán)

(Legislative Tracking: Code Compliance/Office of the City Attorney)

(Revised Memorandum & Resolution)

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Condensed Title:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER TO REJECT ALL PROPOSALS RECEIVED, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 2016-107-WG FOR HOSTED AUTOMATIC CALL DISTRIBUTION SERVICES; AND, IN THE ALTERNATIVE, ACCEPTING THE CITY MANAGER'S RECOMMENDATION TO WAIVE, BY A 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENT, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE ADMINISTRATION TO ENTER INTO DIRECT, SIMULTANEOUS NEGOTIATIONS WITH AT&T CORP AND UNIFY, INC, RESPECTIVELY, FOR HOSTED AUTOMATIC CALL DISTRIBUTION SERVICES; AND FURTHER DIRECTING THE ADMINISTRATION TO SUBMIT THE FINAL NEGOTIATED AGREEMENT TO THE MAYOR AND CITY COMMISSION FOR APPROVAL.

Key Intended Outcome Supported:

Streamline The Delivery Of Services Through All Departments

Supporting Data (Surveys, Environmental Scan, etc): N/A

Item Summary/Recommendation:

On April 13, 2016, the City Commission approved the month-to-month extension with Inktel Contract Solutions, LLC (Inktel), for call center services until such time as the Finance and Emergency Management Departments are prepared to bring the contracted services in-house; and further authorized the issuance of RFQ 2016-107-WG to seek statements of qualifications from firms to provide hosted automatic call distribution services for the City of Miami Beach.

The RFQ was released on April 21, 2016, with a proposal due date of June 3, 2016. Two (2) addenda were issued. The Procurement Department issued bid notices to 598 firms utilizing ww.publicpurchase.com. Fifty nine (59) prospective bidders accessed the advertised solicitation. The RFQ sought statements of qualification from firms to provide hosted automatic call distribution services for the City of Miami Beach.

The RFQ resulted in the receipt of statement of qualifications from AT & T Corp. and Unify, Inc.

AT & T Corp. was deemed non-responsive for failure to meet the requirements of the RFQ, including submission of verifiable information documenting compliance with the minimum qualification requirements. The proposer failed to provide three (3) references for which hosted automatic call distribution services have been provided within the last five (5) years.

The remaining proposal from Unify, Inc., was initially deemed to be responsive and, therefore, was submitted to the Evaluation Committee for review and scoring. The Evaluation Committee scored the proposal submitted by Unify low because the proposal did not include a third-party hosted system as requested by the RFQ.

RECOMMENDATION

After reviewing the proposals received and the results of the evaluation process, as well as the importance of the timely implementation of the required services to assist the City in bringing in house the call center services currently outsourced to a contractor, the City Manager recommends that the Mayor and City Commission of the City of Miami Beach, Florida, approve the Resolution to: reject all proposals received, pursuant to Request for Qualifications (RFQ) No. 2016-107-WG, for Hosted Automatic Call Distribution Services; and authorizing the Administration to enter into direct, simultaneous negotiations with AT&T Corp., and Unify, Inc., to secure the most favorable agreement for the City in the most expeditious manner, waiving, by a 5/7ths vote, the competitive bidding requirements, finding such waiver to be in the best interest of the City; and further directing the Administration to submit the final negotiated agreement to the Mayor and City Commission for approval.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:	Amount	Account
1		
Total		

Financial Impact Summary:**City Clerk's Office Legislative Tracking:**

Alex Denis, 6641

Sign-Offs:

Department Director AD AW	Assistant City Manager MT	City Manager JLM
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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 13, 2016

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER TO REJECT ALL PROPOSALS RECEIVED, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 2016-107-WG FOR HOSTED AUTOMATIC CALL DISTRIBUTION SERVICES; AND, IN THE ALTERNATIVE, ACCEPTING THE CITY MANAGER'S RECOMMENDATION TO WAIVE, BY A 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENT, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE ADMINISTRATION TO ENTER INTO DIRECT, SIMULTANEOUS NEGOTIATIONS WITH AT&T CORP AND UNIFY, INC, RESPECTIVELY, FOR HOSTED AUTOMATIC CALL DISTRIBUTION SERVICES; AND FURTHER DIRECTING THE ADMINISTRATION TO SUBMIT THE FINAL NEGOTIATED AGREEMENT TO THE MAYOR AND CITY COMMISSION FOR APPROVAL.

ADMINISTRATION RECOMMENDATION

Adopt the resolution.

FUNDING

The annual cost associated with the hosted automatic call distribution services is subject to the funds availability approved through the City's budgeting process.

BACKGROUND

On April 13, 2016, the City Commission approved the month-to-month extension with Inktel Contract Solutions, LLC (Inktel), for call center services until such time as the Finance and Emergency Management Departments are prepared to bring the contracted services in-house; and further authorized the issuance of RFQ 2016-107-WG to seek statements of qualifications from firms to provide hosted automatic call distribution services for the City of Miami Beach.

RFQ PROCESS

The RFQ was released on April 21, 2016, with a proposal due date of June 3, 2016. Two (2) addenda were issued. The Procurement Department issued bid notices to 598 firms utilizing www.publicpurchase.com. Fifty nine (59) prospective bidders accessed the advertised solicitation. The RFQ sought statements of qualification from firms to provide hosted automatic call distribution services for the City of Miami Beach.

The RFQ resulted in the receipt of statement of qualifications from AT & T Corp. and Unify, Inc.

The proposal from AT & T Corp. was deemed non-responsive for failure to meet the requirements of the RFQ, including submission of verifiable information documenting compliance with the minimum qualification requirements. The proposer failed to provide three

(3) references for which hosted automatic call distribution services have been provided within the last five (5) years.

The remaining proposal from Unify, Inc., was initially deemed to be responsive and, therefore, was submitted to the Evaluation Committee for review and scoring. The results of the Evaluation Committee process are noted in the table below. The Evaluation Committee scored the proposal submitted by Unify low because the proposal did not include a third-party hosted system as requested by the RFQ.

	R Alba	B Hawayek	R McBride	H Villareal
Unify, Inc.	65	75	40	55

Scores are based on a possible 100 point maximum.

CITY MANAGER'S DUE DILIGENCE

After reviewing the proposals received and the results of the evaluation process, as well as the importance of the timely implementation of the required services to assist the City in bringing in house the call center services currently outsourced to a contractor, the City Manager recommends that the Mayor and City Commission of the City of Miami Beach, Florida, approve the Resolution to: reject all proposals received, pursuant to Request for Qualifications (RFQ) No. 2016-107-WG, for Hosted Automatic Call Distribution Services; and authorizing the Administration to enter into negotiations with AT&T Corp., and Unify, Inc., to secure the most favorable agreement for the City in the most expeditious manner, waiving, by a 5/7ths vote, the competitive bidding requirements, finding such waiver to be in the best interest of the City; and further authorizing the Mayor and City Clerk to execute an agreement.

The City, through the RFQ, attempted to seek competition for the automated hosted call center services, which will allow City staff to effectively manage the current volume received by the Call Center. Unfortunately, one proposal received was non-responsive to the RFQ and the other did not provide the requested services. Due to the importance of implementing the Call Center in a timely fashion, I do not believe it is prudent or effective to issue a new RFQ. For this reason, I recommend pursuing the option to negotiate with available service providers as quickly as possible. Because of the time sensitivity of this project, as well as the fact that there is no City Commission meeting in August, I am also recommending that, as quickly as negotiations with the firm deemed to be in the best interest of the City can be completed, the Mayor and City Clerk be authorized to execute the Agreement. Prior to execution, the final proposed agreement will be distributed to the Mayor and City Commission via a Letter to Commission (LTC) seeking your review and comments.

CONCLUSION

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida, approve the resolution accepting the recommendation of the City Manager, to reject all proposals received pursuant to Request for Qualifications (RFQ) No. 2016-107-WG for hosted automatic call distribution services; and, in the alternative, accept the City Manager's recommendation to waive, by a 5/7ths vote, the competitive bidding requirement, finding such waiver to be in the best interest of the City, and authorize the Administration to enter into direct, simultaneous negotiations with AT&T Corp. and Unify, Inc., respectively, for hosted automatic call distribution services; and further direct the Administration to submit the final negotiated agreement to the Mayor and City Commission for approval.

JLM / MT / AW/ AD / WG

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER TO REJECT ALL PROPOSALS RECEIVED, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 2016-107-WG FOR HOSTED AUTOMATIC CALL DISTRIBUTION SERVICES; AND, IN THE ALTERNATIVE, ACCEPTING THE CITY MANAGER'S RECOMMENDATION TO WAIVE, BY A 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENT, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE ADMINISTRATION TO ENTER INTO DIRECT, SIMULTANEOUS NEGOTIATIONS WITH AT&T CORP AND UNIFY, INC, RESPECTIVELY, FOR HOSTED AUTOMATIC CALL DISTRIBUTION SERVICES; AND FURTHER DIRECTING THE ADMINISTRATION TO SUBMIT THE FINAL NEGOTIATED AGREEMENT TO THE MAYOR AND CITY COMMISSION FOR APPROVAL.

WHEREAS, on April 13, 2016, the Mayor and City Commission approved the issuance of RFQ 2016-107-WG for Hosted Automatic Call Distribution Services; and

WHEREAS, Request for Qualifications (RFQ) No. 2016-107-WG (the RFQ) was released on April 21, 2016; and

WHEREAS, on June 3, 2016, the City received statements of qualifications from AT & T Corp. (AT&T) and Unify, Inc. (Unify); and

WHEREAS, the proposal for AT&T was deemed non-responsive for failure to meet the minimum requirements of the RFQ; and

WHEREAS, the remaining proposal, from Unify, was submitted to the Evaluation Committee for review and scoring; and

WHEREAS, the Evaluation Committee scored the proposal submitted by Unify low because the proposal did not include a third-party hosted system, as requested by the RFQ; and

WHEREAS, the City Manager reviewed the proposals received, the results of the evaluation process, and the importance of the timely implementation of the required services to assist in bringing in-house the call center services currently outsourced; and

WHEREAS, the RFQ only produced two proposers, and in light of the need to implement the call center in a timely fashion, the City Manager recommends rejecting all bids received pursuant to the RFQ, and waiving, by 5/7ths vote, the competitive bidding requirement, so that the Administration may enter into negotiations with AT&T and Unify, in an effort to secure the most favorable agreement for the City in the most expeditious manner.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the recommendation of the City Manager to reject all proposals received pursuant to Request for Qualifications (RFQ) No. 2016-107-WG for hosted automatic call distribution services; and, in the alternative, accept the City Manager's recommendation to

waive, by a 5/7ths vote, the competitive bidding requirement, finding such waiver to be in the best interest of the City, and authorize the Administration to enter into direct, simultaneous negotiations with AT&T Corp. and Unify, Inc., respectively, for hosted automatic call distribution services; and further direct the Administration to submit the final negotiated agreement to the Mayor and City Commission for approval.

PASSED AND ADOPTED this _____ day of _____ 2016.

ATTEST:

RAFAEL E. GRANADO, CITY CLERK

PHILIP LEVINE, MAYOR

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

[Signature] for 7/7/16

City Attorney *[Signature]* Date

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A LANDLORD WAIVER, SUBSTANTIALLY IN THE FORM ATTACHED TO THIS RESOLUTION, IN FAVOR OF BANK OF AMERICA, INVOLVING THE LEASE AGREEMENT BETWEEN THE CITY (LANDLORD) AND THE MIAMI CITY BALLET, INC. (TENANT) FOR THE BUILDING LOCATED AT 2200 LIBERTY AVENUE, MIAMI BEACH, FLORIDA (PREMISES); SAID WAIVER SUBORDINATING THE CITY'S STATUTORY LIEN RIGHTS AGAINST THE PERSONAL PROPERTY IN THE PREMISES (IN THE EVENT OF A DEFAULT UNDER THE LEASE); AND WHICH WAIVER IS BEING REQUIRED BY BANK OF AMERICA, AS SECURITY FOR A REVOLVING LINE OF CREDIT, HAVING A LIMIT OF \$1,500,000, WHICH IS BEING SECURED BY THE TENANT'S COLLATERAL, WHICH INCLUDES THE PERSONAL PROPERTY IN THE PREMISES.

WHEREAS, Miami City Ballet was founded in 1985 and has grown to maturity and national acclaim while headquartered in the City of Miami Beach where it has been located for more than thirty years; and

WHEREAS, the City and the Miami City Ballet, Inc. (MCB) executed a ground lease, dated April 13, 1994, as amended (the Ground Lease), and pursuant to said Ground Lease, the City initially contributed \$2.5 Million Dollars, as well as public land located at 2200 Liberty Avenue, Miami Beach, Florida, toward the cost of the MCB studio facility and improvements therein (the Building), which was designed, constructed, owned, operated and maintained by the MCB under the terms of the Ground Lease; and

WHEREAS, in an effort to assist the Ballet with serious financial problems it had encountered, and to continue to house the MCB headquarters in the City of Miami Beach, on September 21, 2005, the Mayor and City Commission, adopted Resolution No. 2005-26017, and the Chairman and Members of the Miami Beach Redevelopment Agency adopted a companion Resolution No. 518-2005, ratifying a term sheet containing agreed upon terms, which provided, in material part, for the City's purchase of the Building from MCB, in the amount of \$5.24 Million Dollars; and further authorized the City to negotiate with MCB a long term lease agreement of the Building and improvements contained therein (the Premises), following the purchase of the Building; and

WHEREAS, on February 8, 2006, the Mayor and City Commission adopted Resolution 2006-26125, approving the execution of the Lease Agreement (the Lease) between the City, as landlord, and MCB, as Tenant, dated February 9, 2006, for the lease of the Premises, consisting of a 63,000 square foot facility, containing administrative offices, a school, studio space, and a gift shop; and

WHEREAS, the Lease has an initial term of forty (40) years and sixty-three (63) days, commencing on February 9, 2006, with four possible separate renewal options (the first three options for fifteen (15) years each and the fourth of fourteen (14) years), subject to meeting certain Renewal Conditions; and

WHEREAS, in order to ensure future funding for the maintenance and capital improvements of the Premises, Section 6 of the Lease requires MCB to pay the City, as additional rent, funds (the Funds) which are owned, held and disbursed by the City in sub-accounts for maintenance and capital improvements; and

WHEREAS, in 1986, its first performance season, the Miami City Ballet had a budget of \$1,000,000, a troupe of 19 dancers and a handful of staff, and today, in its 31st season, the MCB has grown to a budget of more than \$16.5 Million and includes the a troupe of 52 dancers, 1,200 students (as young as three), and more than 85 administrative and artistic staff members who provide support the MCB and School; and

WHEREAS, Miami City Ballet earns seasonal revenue and is in need of a revolving line of credit to cover operating expenses during its slower periods; and

WHEREAS, in order to secure a line of credit, in the amount of \$1,500,000, Bank of America (BOA) is requiring a Landlord Waiver, substantially in the form attached to this Resolution as Exhibit A; and

WHEREAS, pursuant to the Landlord Waiver, the City would be agreeing to subordinate it's interest in the MCB's personal property (the City's statutory lien rights against MCB's personal property in the Premises), in the event of a default by MCB under the Lease; and

WHEREAS, the Landlord Waiver additionally provides: (1) clarification that that the City is not subordinating its interest to its property, and more particularly, the following: (i) fixtures and improvements contained in the Premises, (ii) the Lease, or (iii) the maintenance and capital improvement Funds; (2) BOA with a right of entry to the Building in the event MCB defaults under the loan documents; (3) Indemnifies the City when entering the Building; and (4) requires notice to the City along with a thirty (30) day cure period before exercising its rights against the Collateral.

NOW, THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve and authorize the City Manager to execute a Landlord Waiver, substantially in the form attached to this Resolution, in favor of Bank of America, involving the Lease Agreement between the City (Landlord) and the Miami City Ballet, Inc. (Tenant) for the building located at 2200 Liberty Avenue, Miami Beach, Florida (Premises); said waiver subordinating the City's statutory lien rights against the personal property in the Premises (which Landlord would have in the event of a default under the lease); and which waiver is being required by Bank of America, as security for a revolving line of credit, having a limit of \$1,500,000, which is being secured by the Tenant's collateral, which includes the personal property in the Premises.

PASSED and ADOPTED this ____ day of _____ 2016.

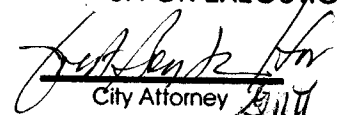
ATTEST:

Rafael E. Granado, City Clerk

Philip Levine, Mayor

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *Bill* 7-8-16
Date

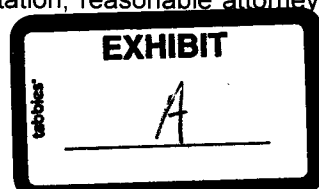
LANDLORD WAIVER

The undersigned has an interest as owner of certain real property commonly known as 2200 Liberty Avenue, Miami Beach, Florida, including a building ("Building") having 63,000 square feet, together with all improvements and fixtures located thereon (the "Real Property"), and has leased the Building together with all improvements and fixtures (the "Premises") to Borrower (as defined below) pursuant to that certain Lease Agreement, dated as of February 9, 2006 (the "Lease"), as more particularly described in the Lease, a copy of which is attached hereto as Exhibit "A".

Bank of America, N.A. (the "Bank") has extended certain financial accommodations to Miami City Ballet, Inc., a Florida not-for-profit corporation (the "Borrower") and, as security therefore, the Borrower has executed one or more finance agreements, consisting of a Loan Agreement and Promissory Note for a revolving line of credit, in an amount not to exceed \$1,500,000, and security agreements, consisting of a Security Agreement and a UCC-1 Financing Statement (collectively, the "Loan Documents"), granting to the Bank a security interest in and to the Borrower's collateral, as described in the security agreements (the "Collateral"). A copy of the Security Agreement and UCC-1 Financing Statement are attached hereto and incorporated herein by reference as Exhibit "B".

In order to induce the Bank to extend credit to the Borrower, and in consideration of such extension of credit, the undersigned agrees as follows, subject to the terms and conditions set forth in this Landlord Waiver:

1. Notwithstanding anything to the contrary in the Loan Documents, the following shall be excluded from the definition of Collateral under the Loan Documents as it pertains to the Lease and Premises, and shall be clarified herein as "Landlord's Property": (1) the Premises; (2) the Lease; (3) all Fund accounts owned and held by Landlord (as defined in Section 6 of the Lease); (4) all current or future improvements to the Premises; (5) all Fixtures (as defined under Florida Statutes Section 679.1021(1)(00) and the security agreements), including fixed trade fixtures; and (6) any other improvements, equipment, machinery and appurtenances which are essential to maintain a secure and habitable environment for legal occupancy of the Premises, which may include, but are not limited to: (i) air conditioning/heating system equipment, (ii) electrical equipment, such as lighting fixtures, switches, and electrical outlets; (iii) plumbing equipment; (iv) interior and exterior doors and windows; (v) flooring and trim; (vi) networking and telephone cables; (vii) all bathroom fixtures, including cabinetry, and plumbing fixtures (sinks and toilets); (viii) kitchen fixtures (including cabinetry and plumbing fixtures (sinks and related attachments), all of which shall be considered a part of the Premises. The Borrower's Collateral, with respect to the Premises shall be limited to Borrower's personal property and unaffixed trade fixtures, which are not defined as Landlord's Property herein (hereinafter referred to as "Borrower's Personal Property").
2. The Borrower's Personal Property shall be deemed to be personal property and shall not be considered a part of the Real Property. To the extent the undersigned has any interest in or lien on Borrower's Personal Property, the undersigned hereby subordinates such interest or lien to the security interest which the Bank now has or may hereafter acquire in Borrower's Personal Property.
3. The undersigned consents to the Bank, its agents, employees and invitees entering upon the Real Property for the purpose of removing Borrower's Personal Property; provided, however, that the Bank has sent Notice to the Landlord and Landlord's agent is permitted to be present during the removal of Borrower's Personal Property, and Bank shall repair any physical damage to the Real Property caused by its removal of the Personal Property.
4. The Bank shall and does hereby indemnify, defend and hold harmless the undersigned against and from any and all claims, demands, losses, liabilities, obligations, suits, damages, penalties, costs, charges and expenses, including, without limitation, reasonable attorneys' fees and other



professional fees (if and to the extent permitted by law), that may be imposed upon, incurred by, or asserted against the undersigned or the Real Property, which arise from the Bank's entry upon the Real Property or its efforts to protect, control, take control of or dispose of Borrower's Personal Property; provided, however, that the Bank shall not indemnify the undersigned for losses resulting directly from the undersigned's breach of this Agreement, gross negligence or intentional misconduct.

5. The Bank agrees to provide Landlord with copies of all notices of default for any default by Borrower under the Loan Documents, and shall permit the City of Miami Beach, at its sole option and discretion (and without an obligation to do so), to cure any defaults under the Loan Documents within thirty (30) days written notice ("Notice") of said default.
6. All notices to the Bank and City of Miami Beach shall be sent to the following address:

Bank of America, N.A.
Doc Retention
NC1-001-05-13
One Independence Center
101 North Tryon St, Charlotte, NC 28255-0001

City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
Attention: City Manager

With a copy to:

City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
Attention: City Attorney

Neither Borrower nor the Bank shall be allowed to conduct any public or liquidation sale in, on or about the Premises or the Real Property without the undersigned's prior written consent, which may be granted or denied in the undersigned's sole discretion.

Except to the extent that any law of the United States may apply, this Agreement shall be governed and interpreted according to the laws of Florida, without regard to any choice of law, rules or principles to the contrary. The exclusive venue for any litigation arising out of this Agreement shall be Miami-Dade County, Florida, if in State Court, and the U.S. District Court, Southern District of Florida, if in Federal Court. Nothing in this paragraph shall be construed to limit or otherwise affect any rights or remedies of the Bank under federal law.

Dated: July 13, 2016

ATTEST:

CITY OF MIAMI BEACH, FLORIDA

City Clerk

By: _____
Print Name: _____
Title: _____

ACKNOWLEDGED AND AGREED TO:

The Bank:

BANK OF AMERICA, N.A.,
a national banking association

By: _____
Print Name: _____
Title: _____

Exhibit A
Lease

CONFIDENTIAL

Exhibit B
Security Documents

DRAFT

Exhibit A
Lease
(See Attached)

signed
copy

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made and entered into this 9th day of February, 2006 (the "Effective Date"), by and between the **CITY OF MIAMI BEACH**, a Florida municipal corporation ("City" or "Landlord"), and **MIAMI CITY BALLET, INC.**, a Florida not-for-profit corporation ("Tenant").

1. Leased Premises. Landlord, in order to create a significant educational and cultural facility for the use and enjoyment of the general public and for and in consideration of the covenants, conditions and agreements to be kept and performed by Tenant, hereby leases, lets and demises to Tenant, and Tenant hereby leases and hires from Landlord, those certain premises, located in the City of Miami Beach, Florida, and more fully described as follows:

the building located at 2200 Liberty Avenue, Miami Beach, Florida, encompassing approximately Sixty Three Thousand (63,000) square feet, together with all improvements and fixtures located therein (the "Building") (the Building and all improvements and fixtures are hereinafter collectively referred to as the "Leased Premises"). The Building is located on that certain parcel of real property legally described on Exhibit A attached hereto and made a part hereof (the "Land"); provided, however, the Land does not constitute a part of the Leased Premises and no lease rights or other rights in and to the Land are granted to Tenant pursuant to this Lease.

2. Term.

2.1. Initial Term. The initial term of this Lease shall be forty (40) years and sixty-three (63) days (the "Initial Term") commencing on **February 9, 2006** (the "Commencement Date") and ending on **April 12, 2046** (the "Expiration Date").

2.2. Renewal Option. Landlord shall provide Tenant four separate options (each, a "Renewal Option") to extend the term of this Lease for additional term(s) (each, a "Renewal Term") of fifteen (15) years each (as to each of the first three Renewal Terms) and one (1) additional term of fourteen (14) years (as to the fourth Renewal Term), under the same terms and conditions of this Lease as are applicable during the Initial Term; provided, however, each Renewal Option shall be available only if Tenant has satisfied the Renewal Conditions as specified in Section 2.3 below. Tenant shall exercise a Renewal Option by delivering written notice of such exercise to Landlord not more than twenty-four (24) months nor less than twelve (12) months prior to the end of the then current Lease Term. If a Renewal Option is properly exercised by Tenant, the Renewal Term shall commence at the expiration of then current Term of the Lease and shall expire at the end of fifteen (15) years thereafter (fourteen (14) years in the case of the last Renewal Term). If Tenant is not entitled to, or fails to, timely exercise a Renewal Option, Tenant shall have no further rights to renew the Term of this Lease. (The Initial Term, together with any Renewal Term, is sometimes hereinafter referred to collectively as the "Term").

2.3. Renewal Conditions. Tenant shall not be entitled to exercise a Renewal Option at any time when (a) Tenant is in default under any provisions of this Lease, or (b) Tenant has ceased to operate as a not-for-profit regional ballet company with a full schedule of performances. Any attempt by Tenant to exercise a Renewal Option during the occurrence of any event described in (a) or (b) shall be void and of no force or effect. If Tenant properly exercises a Renewal Option but any event described in (a) or (b) exists at the time the Renewal Term would otherwise commence, Landlord may at its option declare the exercise of the Renewal Option void, in which case the Lease shall terminate as if the Renewal Option had not been exercised.

3. Rent.

3.1. Base Rent. For the Term of the Lease, Tenant shall pay Landlord a nominal annual rent for the Leased Premises of One Dollar (\$1.00) (the "Base Rent"), which shall be payable in advance without demand, commencing on the Commencement Date and thereafter on the first day of each Lease Year. "Lease Year" shall mean each consecutive twelve (12) calendar month period of the Initial Term, and of each Renewal Term, if applicable, commencing on the Commencement Date; provided, however, that the first Lease Year shall include the partial month of February 2006 plus the following twelve (12) calendar months. The Base Rent and all other amounts due hereunder shall be paid to Landlord in legal tender of the United States of America at the office of Landlord designated in Section 4 or at such other place as Landlord shall from time to time designate by notice in writing.

3.2. Additional Rent. In addition to the Base Rent as set forth in Section 3.1, Tenant shall also pay to Landlord as Additional Rent the following:

3.2.1. Taxes; Impositions. Tenant shall be responsible for all Property Tax Payments, Taxes and Impositions (as such terms are hereafter defined). The parties anticipate that the Building is tax exempt; however, in the event that any Property Tax Payment or any Imposition is required in connection with the Leased Premises, Tenant shall be solely responsible for such payment.

3.2.2. Operating Expenses. Tenant shall pay all costs and expenses related to the ownership, maintenance and operation of the Leased Premises except as otherwise specifically provided herein (thereby leaving all rents owed by Tenant hereunder as an absolutely net return to Landlord).

3.2.3. Contributions to Fund. Tenant shall pay as and when due all contributions required by Section 6.1.

3.2.4. Other Amounts. Tenant shall also pay when due all other amounts required by this Lease.

Tenant shall pay all Base Rent and Additional Rent, and other charges and expenses in connection with the Leased Premises throughout the Term, without abatement, deduction or setoff.

3.3. Sales Tax. Tenant shall also pay all applicable sales and use tax now or hereafter prescribed by state, federal or local law, concurrent with any payment due hereunder by Tenant.

4. Location for Payments. All rents and other payments due hereunder shall be paid to Landlord at the following address:

City of Miami Beach
Finance Department
c/o Revenue Supervisor
1700 Convention Center Drive
Miami Beach, Florida 33139

5. Use and Possession of Leased Premises.

5.1. Permitted Uses. Tenant shall use the Leased Premises solely and exclusively as the headquarters for its not-for-profit regional ballet company. Such uses shall include only the following (the "Permitted Uses"):

- (i) dance studio;
- (ii) dance school;
- (iii) dance museum;
- (iv) practice rooms;
- (v) performance halls;
- (vi) Tenant's administrative offices;
- (vii) as uses ancillary to those specified in (i)-(vi) above, a cafeteria for Tenant's employees and a small café;
- (viii) as ancillary uses, from time to time, as a site for receptions and other similar events;
- (ix) as an ancillary use, from time to time as a site for filming commercials, photo shoots, orchestra and other rehearsals for a fee, as a means of producing income to support Tenant's regional ballet company;
- (x) as ancillary uses, for Miami City Ballet's wardrobe shop, wardrobe storage area and production offices; and
- (xi) as ancillary uses from time to time, for alternative type of classes including yoga, martial arts and other related exercise classes.

No other uses shall be permitted without the prior written approval of Landlord (acting by and through the City Manager), which approval may be granted or withheld in Landlord's sole and absolute discretion. Any such other use which Landlord approves must, however, be in accordance with (i) the Articles of Incorporation and other charter documents of Tenant, (ii) all laws and regulations applicable to not-for-profit entities, and (iii) all ad valorem tax exempt uses of property under Chapter 196, Florida Statutes.

5.2. Other Uses Prohibited. The Leased Premises shall be used by Tenant during the Term of this Lease only for the Permitted Uses specified in Section 5.1 and for the purposes specified in Section 33 below, and for no other purposes or uses whatsoever. The Leased Premises shall never be used for a for-profit business or enterprise (except, however, that (i) those uses contemplated under Section 5.1(viii) may involve for-profit entities, and (ii) the café which is a Permitted Use under Section 5.1 may be a for-profit entity so long as Landlord, acting by and through the City Manager, has approved the café operator, in writing, prior to commencement of such use). Tenant will not make or permit any use of the Leased Premises that directly or indirectly is prohibited by law, ordinance or government regulation or that may be dangerous to life, limb or property. Tenant may not commit waste on the Leased Premises, use the Leased Premises for any illegal purpose, commit a nuisance on the Leased Premises, or allow any toxic, hazardous or dangerous substance to be brought into the Leased Premises or stored therein (other than small quantities of materials customarily used in the operation of regional ballet facilities, which shall be used and stored in compliance with applicable law). In the event that Tenant uses the Leased Premises for any purposes not expressly permitted herein, then Landlord may declare this Lease in default and in addition to all other remedies available to Landlord restrain such improper use by injunction or other legal action with or without notice to Tenant.

6. Financial Covenants.

6.1. Establishment and Use of Fund; Contributions. To help pay the cost of certain capital repairs and replacements and to pay for certain specified maintenance contracts, Tenant shall pay, as Additional Rent, annual contributions to a fund (the "Fund") to be held and disbursed by Landlord pursuant to the provisions of this Section 6.1.

The annual contribution shall be **Ninety Thousand and 00/100 Dollars (\$90,000)** for each of the first three (3) Lease Years but shall be increased each Lease Year thereafter as provided in Sections 6.1.1 and 6.1.2 below. All disbursements from the Fund shall be subject to the approval of the City Manager. The Fund shall be divided into two Sub-Accounts (a Capital Sub-Account pursuant to section 6.1.1 below and a Maintenance Sub-Account pursuant to Section 6.1.2 below). Each Sub-Account shall be established, held, and disbursed as hereafter provided. Each Sub-Account shall be held in an interest-bearing bank account established by Landlord with all interest being added to, and constituting a part of, the applicable Sub-Account.

6.1.1. Capital Sub-Account. For each of the first three Lease Years, Tenant shall pay an annual amount of \$47,500 to Landlord to be placed in the Capital Sub-Account; provided, however, as an accommodation to Tenant, Landlord agrees that all such payments (in the aggregate amount of \$142,500) shall be deferred and paid (without interest) in equal annual installments of \$3,852.00 each, which shall be due and payable in full on the first day

of each and every April during the remaining thirty-seven years of the forty year Initial Term. All such installments of the deferred amount shall be in addition to the annual contributions to be paid by Tenant to the Capital Sub-Account for the fourth Lease Year and each succeeding Lease Year.

Commencing with the fourth Lease Year, the required annual contribution to the Capital Sub-Account of \$47,500 (subject to increases as herein provided) shall be due and payable in four equal quarterly installments of \$11,875 each, which shall be due and payable on the first day of each April, July, October, and January of each Lease Year. Amounts in the Capital Sub-Account shall be disbursed from time to time by Landlord to pay for such capital repairs and replacements as Landlord shall approve. From time to time, in Landlord's sole discretion, the annual contribution to be paid by Tenant to the Capital Sub-Account shall be adjusted to equal (i) the replacement cost for the capital repair/replacement item(s) being reserved for, escalated to reflect the anticipated replacement cost at the end of the useful life of such items divided by (ii) the useful life of such items. Landlord shall notify Tenant of the amount and effective date of each increase with such increase to be effective no sooner than three (3) months after notice and Tenant shall thereafter pay the increased annual contributions in quarterly installments. In no event shall the annual contribution to the Capital Sub-Account be less than \$47,500.

6.1.2. Maintenance Sub-Account. For each of the first three Lease Years during the Term, Tenant shall also pay an annual amount of \$42,500 to Landlord to be placed in a Maintenance Sub-Account; provided, however, as an accommodation to Tenant Landlord agrees that all such payments in the aggregate amount of \$127,500 shall be deferred and paid (without interest) owed for the first three (3) Lease Years in equal annual installments of \$3,445.95 each, which shall be due and payable in full on the first day of each and every April during the remaining thirty-seven (37) years of the forty (40) year Initial Term. All such deferred payments shall be in addition to the annual contribution to be paid by Tenant to the Maintenance Sub-Account.

Commencing with the fourth Lease Year, the required annual contribution to the Maintenance Sub-Account of \$42,500 (subject to increases as herein provided) shall be due and payable in twelve (12) equal installments on the first day of each and every month during each Lease Year. The Maintenance Sub-Account shall be applied towards monthly payments of amounts due under maintenance contracts for the following items only (the "Required Items"): HVAC, elevator, fire alarm, roof, security alarm and fire protection systems. Tenant shall at all times during the Term enter into and maintain in effect a maintenance contract (each, a "Maintenance Contract") for each of the Required Items with a qualified, reputable and licensed company approved by City Manager and which shall be in form and substance approved by City Manager, which approval shall not unreasonably be withheld. Landlord shall make monthly disbursements from the Maintenance Sub-Account to pay monthly installments due under the Maintenance Contracts upon Tenant's request, accompanied by such invoices and other documents as Landlord shall reasonably request. To the extent that the aggregate amount due under the Maintenance Contracts increases in any Lease Year, the annual amounts to be paid by Tenant toward the Maintenance Sub-Account shall similarly increase (and the monthly installments to be paid by Tenant shall be increased

accordingly). In no event, however, shall the annual contributions to the Maintenance Sub-Account be less than \$42,500. In the event Landlord determines that there are excess funds in the Maintenance Sub-Account, Landlord may transfer the excess to the Capital Sub-Account.

Nothing in this Section 6.1 shall limit Tenant's obligation to maintain the Leased Premises as required by this Lease. The Fund and the Maintenance Contracts are intended only to address specific items of maintenance and such items are not all-inclusive. Additional work and additional funds will be required.

6.2. Fiscal Responsibility. Tenant recognizes that it is a material consideration for Landlord's entering into this Lease and granting the accommodations provided herein that Tenant shall operate in a fiscally responsible manner throughout the Term in order to assure its continued existence as a regional ballet company. Accordingly, Tenant agrees to (a) adopt an annual budget each year pursuant to which projected revenues equal or exceed projected expenses and containing reasonable contingencies to address unexpected decreases in revenues or increases in expenses; and (b) monitor the budget not less than quarterly and if necessary modify operations to achieve a balanced budget for the applicable fiscal year. Landlord recognizes that a significant portion of Tenant's revenues consist of charitable contributions, the amount of which varies from year to year, making it difficult for Tenant to accurately determine in advance its revenues for the coming year. Tenant agrees, however, to make reasonable revenue projections in each annual budget based upon historical contributions and binding pledges. The quarterly monitoring of the budget and the adjustment to operations is intended in part to provide a mechanism to alter Tenant's operations and achieve a balanced budget as revenue projections become more dependable during each year.

6.3. Operating Capital Account. Throughout the entire Term of this Lease Tenant shall maintain an operating capital account with a financial institution having offices in Miami-Dade County, Florida (the "Operating Capital Account"). Upon execution of this Lease, the Operating Capital Account shall be funded in an amount not less than \$1,354,906.00. Not later than the end of the first Lease Year, the Operating Capital Account shall be increased to an amount not less than \$2,000,000 ("Annual Required Balance"). From time to time during each Lease Year, Tenant may withdraw funds from the Operating Capital Account for the sole purpose of paying the costs of operating the ballet company and the Leased Premises. The parties recognize that from time to time the Operating Capital Account will be reduced below the Annual Required Balance but Tenant agrees, however, that at some point during each Lease Year, Tenant shall increase the balance in the account to an amount equal to or in excess of the Annual Required Balance. At Landlord's request Tenant shall provide Landlord with such financial statements and information as Landlord may reasonably request, including evidence of the balance of the Operating Capital Account. Tenant further covenants that it shall not borrow funds for the purpose of achieving the Annual Required Balance in the Operating Capital Account.

7. Improvements.

7.1. Required Approvals; Procedures. Subject to Landlord's prior written consent which may be granted or withheld at Landlord's reasonable discretion, Tenant may, at its own cost and expense, construct or cause to be constructed, any improvements to the Leased Premises which

in Tenant's opinion are reasonably necessary for it to carry on the Permitted Use(s) as set forth in Section 5 above (the "Improvements"). The plans for the Improvements shall be submitted to Landlord for Landlord's prior written consent and approval. All permanent (fixed) improvements to the Leased Premises shall remain the property of Landlord upon termination of the Lease. Upon the expiration or termination of the Lease for reasons other than Tenant's default, all personal property and removable trade fixtures may be removed by Tenant from the Leased Premises without damage to the Leased Premises (but flooring shall not be removed without Landlord's prior written approval). If such removal of personal property or trade fixtures damages the Leased Premises, Tenant shall repair such damage promptly. If Tenant is not entitled, or fails, to remove its personal property or trade fixtures within ten (10) days after the expiration or termination of this Lease, then all such personal property and trade fixtures shall become the property of Landlord. Tenant will not permit any liens to attach to the Leased Premises arising from, connected with or related to any work performed or materials supplied to the Leased Premises (and if any are filed Tenant shall promptly cause them to be transferred to bond and released as a lien upon the Leased Premises). Any construction shall be accomplished through the use of licensed, reputable contractors who are approved by Landlord and who shall provide the following, all of which shall be approved by Landlord prior to commencement of any work (a) unconditional payment and performance bond issued by a surety acceptable to Landlord and reflecting Landlord and Tenant as co-obligees; and (b) insurance in amounts, form and substance acceptable to Landlord. Any and all permits, and approvals (including, but not limited to, any permits and approvals required to be issued by any governmental or regulatory authorities, including, without limitation, City building permits, and City land use and zoning board approvals) and/or licenses required for the installation of Improvements shall be the sole responsibility of Tenant. Prior to commencement of construction, Tenant shall also provide such additional insurance as Landlord may reasonably require, including, without limitation, builders' risk.

7.2. Exceptions. The above requirements for submission of plans and the use of specific contractors shall not apply to maintenance, repairs, or other Improvements which do not exceed \$1,000 so long as such maintenance, repairs or other Improvements are not structural and not visible from the exterior of the Leased Premises and are permitted by all applicable laws.

8. Landlord's Right of Entry.

8.1. Entry. Landlord and its authorized agents shall have the right to enter the Leased Premises at all times for the purpose of inspecting the Leased Premises, preventing waste, making such repairs as Landlord may deem necessary and for the purpose of preventing fire, theft, or vandalism. Landlord agrees that, if possible, it shall provide advance written notice of such entry to Tenant, unless the need to enter the Leased Premises is an emergency, in Landlord's opinion, which if not immediately addressed could cause property damage, loss of life or limb, or other injury to persons. Nothing contained herein shall imply any duty on the part of Landlord to do any work required to be performed by Tenant under this Lease, and the performance thereof by Landlord shall not constitute a waiver of any default by Tenant.

8.2. Master Key; Forcible Entry. If Tenant is not present to open and provide entry into the Leased Premises at any time and for any reason, and such entry is necessary or permissible

as contemplated by Section 8.1, Landlord, or its agents, may enter the Leased Premises with a master key or by force, without rendering Landlord or such agents liable in connection therewith.

8.3. Duplicate Keys. Tenant agrees to furnish Landlord on the Effective Date duplicate keys to all locks in the Leased Premises, including exterior and interior doors. Tenant shall not change the locks to the Leased Premises without the prior written consent of Landlord, which shall not be unreasonably withheld or delayed, and in the event such consent is given, Tenant shall furnish Landlord with duplicate keys to said locks in advance of their installation.

9. Tenant's Insurance.

9.1. Coverage. Tenant shall, at its sole cost and expense, comply with all insurance requirements from time to time established by Landlord (including, without limitation, requirements as to coverage, amounts and insurer). Prior to the Commencement Date, Tenant shall provide proof of the following insurance coverage for approval by the City's Risk Manager:

9.1.1. Comprehensive General Liability in an amount not less than \$1,000,000 per occurrence for bodily injury and property damage;

9.1.2. Comprehensive Public Liability Insurance in an amount not less than \$1,000,000 per occurrence for bodily injury, death and property damage;

9.1.3. Excess Liability Coverage with limits not less than \$2,000,000; and

9.1.4. Workers Compensation and Employers Liability coverage in accordance with Florida statutory requirements.

9.2. Form. All insurance policies hereunder shall name the City of Miami Beach and the Miami Beach Redevelopment Agency (so long as it remains in existence) as additional insured parties. Proof of coverage must be provided by submitting original certificates of insurance to Landlord. All policies shall provide thirty (30) days written notice of cancellation to both the City's Risk Manager and Asset Manager at 1700 Convention Center Drive, Miami Beach, Florida, 33139. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and shall have a rating of B+; VI or better per A.M. Best's Key Rating Guide, latest edition. All such certificates are subject to the approval of the City's Risk Manager as to form and content.

10. Taxes and Impositions.

10.1. Taxes. The term "Taxes" shall mean (i) all real or personal property taxes, assessments, and special assessments of any kind which may be imposed upon the Land or the Leased Premises, and (ii) any expenses incurred by Landlord in obtaining a reduction of any such taxes or assessments. Landlord and Tenant shall cooperate in submitting and pursuing any application, petition, or request required or permissible in order to preserve the tax exempt status for the Leased Premises. Tenant shall pay any and all costs and expenses in connection with any efforts to obtain or maintain tax exempt status for the Leased Premises. Notwithstanding the foregoing, however, in the event that at any time during the Term of this Lease, the Land, the Building, or the

Leased Premises become subject to the payment of Taxes, Tenant shall be exclusively responsible for all such payments.

10.2. Impositions. For the Term of this Lease, Tenant agrees to pay all of the following items ("Impositions") as apply to the Leased Premises:

- (i) all sales and use taxes and excise taxes relating to the occupancy of the Leased Premises or the Base Rent or the Additional Rent;
- (ii) water and sewer rents, rates and charges;
- (iii) excises;
- (iv) levies;
- (v) license and permit fees;
- (vi) service charges or assessments, including, but not limited to, those charges incurred in connection with police protection, fire protection, street and road construction, maintenance, lighting and landscaping, sanitation and water supply;
- (vii) certified special assessment liens;
- (viii) fines, penalties, late charges and other similar governmental charges applicable to the foregoing and any interest or costs with respect thereto; and
- (ix) all other governmental levies, fees, rents and charges, and any interest that would be an encumbrance or lien on (i) the Land, the Leased Premises and the sidewalks, streets or roadways in front of or adjoining the Land, (ii) any personal property, equipment or other facility used in the operation of the Leased Premises, or (iii) the rent and other amounts due hereunder.

10.3. Due Dates. During the Term, Tenant shall pay all Impositions, or installments thereof, prior to the date on which any fine, penalty, interest or cost may be added thereto or imposed by law for the non-payment thereof; provided, however, that if, by law, any Imposition may, at the option of the taxpayer, be paid in installments (whether or not interest will accrue on the unpaid balance of such Imposition), Tenant may, with Landlord's prior written consent, exercise the option to pay the same in such installments, provided that all such installment payments relating to periods prior to the end of the Term are required to be made prior to the end of the Term.

10.4. Receipts. Upon the request of Landlord, Tenant shall furnish to Landlord, within thirty (30) days after the date an Imposition is due and payable under this Lease, official receipts of the appropriate authority or other evidence reasonably satisfactory to Landlord, evidencing the payment thereof.

11. Assignment and Subletting.

11.1. Required Consent. Tenant shall not have the right to assign this Lease or sublet the Leased Premises or grant any other occupancy rights to third parties, in whole or in part, without the prior written consent of Landlord in each case; provided, however, Tenant shall not be required to obtain Landlord's prior written consent for periodic short term uses pursuant to Section 5.1(viii) above. Landlord may grant or withhold its consent in its sole and absolute discretion. Any assignment or sublease will not release Tenant from any of its obligations under this Lease.

11.2. Continuing Requirements. Any consent by Landlord to any act of assignment or subletting shall apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of Tenant, its legal representatives or assigns, to obtain from Landlord consent to any other or subsequent assignment or sublet, or as modifying or limiting the rights of Landlord under the foregoing covenants of Tenant not to assign without such consent. If Landlord elects to grant its consent to any such assignment, sublease or occupancy rights, the Permitted Uses as specified in Section 5.1 shall remain the same and no other use shall be permitted without Landlord's prior written consent.

11.3. Effect of Violations. Any violation of the provisions of this Lease, whether by act or omission, by assignee, sub-tenant or occupant, shall be deemed a violation of such provision by Tenant, it being the intention and meaning of the parties hereto, that Tenant shall assume and be liable to Landlord for any and all acts and omissions of any and all assignees, sub-tenants or occupants. If the Lease is assigned, Landlord may and is hereby empowered to collect rent from the assignee. If the Leased Premises or any part thereof are underlet or occupied by any person other than Tenant, then Landlord, in the event of Tenant's default, may, and is hereby empowered to, collect rent from the sub-tenant or occupants. In either of such events, Landlord may apply the net amount received by it for rent or other amounts herein reserved, and no such collection shall be deemed a waiver of the covenant herein against assignment or the acceptance of the assignee, subtenant, occupant, or a release of Tenant from the further performance of the covenants herein contained on the part of Tenant.

12. Maintenance and Repair.

12.1. Tenant's Capital Maintenance Obligations. Subject to the terms of this Section 12, Tenant shall be responsible for major capital repairs and replacements in connection with the Leased Premises, including, but not limited to, capital repairs and replacements to the roof, foundation, exterior walls, elevators, HVAC, plumbing, electrical and fire protection systems. In the event of any repair or replacement under this Section 12.1, Landlord shall either (a) elect to perform the work or arrange for such work to be performed on behalf of Landlord, or (b) allow Tenant to perform such work with Landlord's prior approval. All costs of such capital repairs and replacements shall be paid from the Capital Sub-Account. All costs of such capital repairs and replacements which exceed the amount of monies in the Capital Sub-Account shall be paid by Tenant (or if Landlord has advanced the funds, shall be promptly reimbursed by Tenant to Landlord).

12.2. Tenant's Non-Capital Maintenance Obligations. Tenant shall maintain the Leased Premises in good order, repair and appearance. Tenant shall be responsible for the day-to-

day maintenance and repairs of the Leased Premises, including, without limitation, all interior maintenance, housekeeping, non-capital repairs and garbage and waste disposal. Without limiting the generality of the foregoing, Tenant shall at all times keep in full force and effect the Maintenance Contracts for such purposes as are specified in Section 6.1.2 of this Lease. Tenant shall be entitled to disbursements from the Maintenance Sub-Account of the Fund towards the costs thereof as and when specified in Section 6.1.2. In the event Tenant, its contractors, agents, employees or invitees cause any damage to the Leased Premises, Tenant shall at its sole cost be responsible for, and shall promptly cause the repair of, all such damage (regardless of whether such repairs are capital or structural) caused by the act or omission of Tenant, its agents, contractors, employees or invitees. If Tenant or its contractors, agents, employees, or invitees cause any rubbish to be placed upon the land surrounding the Leased Premises Tenant shall cause such rubbish to be promptly removed. Tenant shall prevent graffiti from being placed on the interior and exterior of the Leased Premises and if any graffiti is placed thereon, Tenant shall have it promptly removed. Tenant shall permit Landlord to inspect the Leased Premises at all reasonable times, and shall implement all reasonable suggestions of Landlord as to the maintenance and repair of the Leased Premises.

12.3. Tenant shall be solely responsible for (a) the cost of all maintenance, repairs, and replacements under Section 12.2 to the extent such costs exceed the monies contained in the Maintenance Sub-Account of the Fund and (b) the cost of all capital repairs and replacements under Section 12.1 to the extent such costs exceed the monies contained in the Capital Sub-Account of the Fund.

12.4. **AS-IS. LANDLORD AND TENANT AGREE AND ACKNOWLEDGE THAT THE LEASED PREMISES ARE BEING LEASED IN THEIR PRESENT "AS IS," "WHERE-IS" CONDITION AND WITHOUT WARRANTY OR REPRESENTATION, EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN..**

12.5. **Renovations and Repairs.** It shall be Tenant's obligation to insure that any renovations, repairs and/or Improvements made by Tenant to the Leased Premises comply with all applicable building codes and life safety codes of all governmental authorities having jurisdiction.

12.6. **Capital Improvements.** Landlord agrees to expend up to \$740,000 to fund certain major capital replacements and repairs in connection with the Leased Premises, which may consist of: roof replacement in an amount not to exceed \$500,000; five rooftop air conditioning units in an amount not to exceed \$175,000, and pressure-cleaning, waterproofing, and painting of the Building exterior in an amount not to exceed \$65,000.

13. **Encumbrances.** Tenant shall not directly or indirectly create or allow to remain, and will promptly discharge at its expense, any lien, encumbrance, attachment, title retention agreement or claim upon the Leased Premises or any attachment, levy, claim or encumbrance with respect to any rent or other obligations required to be paid under this Lease, not including, however: (a) this Lease; (b) utility easements and road rights-of-way in the customary form (i) provided the same do not adversely affect the intended use of the Leased Premises (including the Improvements) and do not create an adverse effect on the value of the Leased Premises or (ii) which result solely from the action or inaction of Landlord; (c) zoning and building laws or ordinances, provided they do not prohibit the use of the Leased Premises for the Permitted Uses and so long as the Leased Premises

are in compliance with same; and (d) such encumbrances as are subsequently consented to in writing by Landlord.

14. Tenant Responsibilities for Utilities. Tenant is solely responsible for and shall promptly pay when due all charges for water, gas, electricity, sewer, cable, telephone and any other utility service provided to the Leased Premises, including, without limitation, all hook-up fees and impact fees. In addition to other rights and remedies hereinafter reserved to Landlord, upon the failure of Tenant to pay for such utility services when due, Landlord may elect to pay the same whereby Tenant agrees to promptly reimburse Landlord upon demand. In no event, however, shall Landlord be liable for an interruption or failure in the supply of any utility services to the Leased Premises.

15. Governmental Regulations. Tenant covenants and agrees to fulfill and comply with all statutes, ordinances, rules, orders, regulations, and requirements of all governmental bodies, including, but not limited to, federal, state, county, and city governments, and all of their departments and bureaus as applicable to the Leased Premises. Tenant shall also comply with and fulfill all rules, orders, and regulations and all insurance company requirements in connection with the prevention of fire or other casualty or protection from hurricanes and storms, at Tenant's sole cost and expense; provided, however, that Landlord will be responsible for the costs (but may use the Capital Sub-Account of the Fund) to pay for capital improvements required to be made to the Building in order to comply with such rules, orders or regulations unless the capital improvements are required as a result of Tenant's specific use of the Leased Premises (in which case Tenant shall pay for all such improvements). Tenant shall pay all cost, expenses, claims, fines, penalties, and damages that may be imposed because of the failure of Tenant to comply with this Section 15, and shall indemnify and hold Landlord harmless from all liability arising from any non-compliance.

16. Mechanic's Liens. Tenant shall not permit any mechanics, laborers, or materialmen's liens to be filed against the Leased Premises for any labor or materials furnished, or claimed to have been furnished, to the Leased Premises for or on behalf of Tenant. Any lien for work performed or materials or services provided for or on behalf of Tenant shall attach solely to Tenant's leasehold estate under this Lease and shall not attach to Landlord's interest in the Leased Premises or the Land. In the event any mechanic's or materialmen's lien is filed against the Leased Premises, Tenant shall within ten (10) days after notice from Landlord cause such lien to be paid and satisfied of record or shall cause it to be transferred to bond pursuant to Florida Statutes Chapter 713 and removed as a lien from the Leased Premises. Tenant will immediately pay any judgment rendered with all proper cost and charges and shall have such lien released or judgment satisfied at Tenant's sole expense.

17. Condemnation.

17.1. Total Taking. If all or substantially all of the Leased Premises, or such portion of the Leased Premises or the Building shall be permanently taken or condemned for any public or quasi-public purpose as would render, in Landlord's reasonable judgment, the continuance of Tenant's business from the Leased Premises impracticable, then this Lease shall forthwith cease and terminate.

17.2. Partial Taking. If less than all or substantially all of the Leased Premises or any portion of the Building shall be permanently taken or condemned for any public or quasi-public purpose, then Landlord shall have the option of terminating this Lease by providing written notice to Tenant within ten (10) days from the date of such condemnation or taking. Tenant shall also be entitled to terminate this Lease, by written notice to Landlord within ten (10) days after such notice of taking, if the remaining portion of the Leased Premises is not suitable for Tenant's continued use and operation in accordance with the terms of this Lease.

17.3. Effect on Lease. If this Lease is terminated as provided in Sections 17.1 or 17.2 above, this Lease shall cease and expire as if the date of transfer of possession of the Leased Premises, the Building, or any portion thereof, were the expiration date. In the event that this Lease is not terminated by Landlord or Tenant as aforesaid, Tenant shall pay the Base Rent up to the date of transfer of possession of such portion of the Leased Premises so taken or condemned and this Lease shall thereupon cease and terminate with respect to such portion of the Leased Premises so taken or condemned as if the date of transfer of possession of the Leased Premises were the expiration date relating to such portion of the Leased Premises.

17.4. Temporary Taking. In the event of any temporary taking or condemnation for any public or quasi-public purpose of the Leased Premises or any portion thereof, this Lease shall continue in full force and effect except that Base Rental and Additional Rental shall be adjusted on a pro rata basis for the period of time that the Leased Premises are so taken as of the date of transfer of possession of the Leased Premises and Landlord shall be under no obligation to make any repairs or alterations.

17.5. Condemnation Award. In the event of any condemnation or taking of the Leased Premises, Tenant hereby assigns to Landlord the value of all or any portion of the unexpired term of the Lease and all leasehold improvements and Tenant may not assert a claim for a condemnation award therefore; provided, however, Tenant may pursue a separate attempt to recover an award or compensation against or from the condemning authority for the value of any fixtures, furniture, furnishings and other personal property which were paid for by Tenant subsequent to the Effective Date and not by Landlord and which were condemned but which under the terms of this Lease, Tenant is permitted to remove at the end of the term of this Lease.

18. Default by Tenant. The following events shall each constitute an "Event of Default" under this Lease:

18.1. Any failure of Tenant to pay any Base Rent, Additional Rent, or any installment thereof as and when due and Tenant does not cure such failure within thirty (30) days after receipt of written notice from Landlord of Tenant's failure to make any such payment on its due date;

18.2. Tenant fails to make any other payment provided for under this Lease as and when due and Tenant does not cure such failure within thirty (30) days after receipt of written notice from Landlord;

18.3. Tenant deserts, abandons, or vacates the Leased Premises, or suffers this Lease to be taken under any writ of execution;

18.4. Tenant fails to comply with any term, provision, condition or covenant contained herein, and such failure is not cured within sixty (60) days after receipt of written notice from Landlord; provided, however, if such failure is curable but is not reasonably capable of being cured within sixty (60) days, Tenant shall not be deemed in default if Tenant commences curative action within thirty (30) days after receipt of notice of default, thereafter diligently pursues curative action, and effects the cure within one hundred eighty (180) days after receipt of notice of the default;

18.5. Any notice of violation is issued by any governmental authority of competent jurisdiction with respect to Tenant or the Leased Premises and such violation remains uncured for a period of thirty (30) days from its issuance;

18.6. If (i) any petition is filed by or against Tenant under any section or chapter of the Bankruptcy Act, as amended, which remains pending for more than sixty (60) days, or any other proceedings now or hereafter authorized by the laws of the United States or of any state for the purpose of discharging or extending the time for payment of debts, or (ii) Tenant becomes insolvent or files any debtor proceedings, or (iii) Tenant makes an assignment for the benefit of creditors, or (iv) a receiver is appointed for Tenant by any court and is not dissolved within thirty (30) days thereafter, or (v) the leasehold interest under this Lease is levied under execution; or (vi) Tenant fails to cause the Operating Capital Account to equal or exceed the Annual Required Balance in any two consecutive Lease Years;

18.7. If on or before May 15, 2006, Tenant does not appoint the City Manager and the Chief Financial Officer of the City of Miami Beach as voting members of Tenant's Board of Trustees (and cause Tenant's By-laws to be appropriately amended), or if at any time thereafter Tenant does not allow the City Manager and the Chief Financial Officer of the City of Miami Beach to be full voting members of Tenant's Board of Trustees;

18.8. If Tenant shall at any time cease to be a not-for-profit corporation;

18.9. If Tenant shall cease for more than 120 days to operate as a regional ballet company; or

18.10. If Tenant shall fail to maintain the insurance requirements pursuant to Section 9 herein and Tenant does not cure such failure within fifteen (15) days after receipt of written notice from Landlord.

19. Rights on Default. If any of the Events of Default shall occur, Landlord may, at its option exercise any and all rights and remedies provided under this Lease or otherwise available to Landlord at law or in equity. Landlord may also institute such proceedings as in its opinion are necessary to cure such defaults and to compensate Landlord for damages resulting from such defaults and/or to regain possession of the Leased Premises and Landlord may terminate this Lease by written notice to Tenant. The terms of this Lease shall terminate upon the date specified in such notice from

Landlord to Tenant as fully and completely as if that date were the expiration date. On the date so specified, Tenant shall then quit and surrender the Property to Landlord in accordance with the provisions of Section 41, but if Tenant shall fail to do so Landlord may, without further notice, and without prejudice to any other remedy Landlord may have for possession or arrearages in rent or damages for breach of contract, enter upon Leased Premises and expel or remove Tenant and its effects in accordance with law, without being liable for prosecution or any claim for damages therefore. Upon the termination of this Lease, all rights and interest of Tenant in and to the Leased Premises shall cease and terminate and Landlord may, in addition to any other rights and remedies it may have, retain all sums paid to it by Tenant under this Lease. In addition to the rights set forth above, and any other remedies available to it under law or equity, Landlord shall have the right to pursue any of the following:

19.1. Acceleration. Declare the entire amount of the Base Rent, any Additional Rent, and any other payment due hereunder (other than the annual contribution to the Fund for future Lease Years), which would become due and payable during the remainder of the term of this Lease to be due and payable immediately, in which event Tenant agrees to pay the same at once, at the address of Landlord, as provided in Section 4; provided, however, that such payment shall not constitute a penalty, forfeiture, or liquidated damage, but shall merely constitute payment in advance of the rents for the remainder of said term and such payment shall be considered, construed and taken to be a debt provable in bankruptcy or receivership. Tenant shall have no obligation, however, to pay installments of the Fund for periods subsequent to the termination date of this Lease.

19.2. Reletting. Enter the Leased Premises as the agent of Tenant, by force if necessary, without being liable to prosecution or any claim for damages therefore, remove Tenant's property therefrom, and re-let the Leased Premises, or portions thereof, for such terms and upon such conditions which Landlord deems, in its sole discretion, desirable, and to receive the rents therefor, and Tenant shall pay Landlord any deficiency that may arise by reason of such re-letting, on demand at any time and from time to time at the office of Landlord; and for the purpose of re-letting, Landlord may (i) make any repairs, changes, alterations or additions in or to said Leased Premises that may be necessary or convenient; (ii) pay all costs and expenses therefore from rents resulting from re-letting; and (iii) Tenant shall pay Landlord any deficiency as aforesaid.

19.3. Personal Property. Take possession of any personal property owned by Tenant on the Leased Premises and sell the same at public or private sale, and apply same to the payment of rent due, holding Tenant liable for the deficiency, if any.

19.4. Late Payments. Any installments of Base Rent and Additional Rent accruing under the provisions of this Lease which shall not be paid when due shall bear interest at the maximum legal rate of interest per annum then prevailing in Florida from the date when the same was payable by the terms hereof, until the same shall be paid by Tenant. Any failure on Landlord's behalf to enforce this Section 19.4 shall not constitute a waiver of this provision with respect to future accruals of past due rent. No interest will be charged for payments made within five days of the due date (the "Grace Period"). There will be a late charge of \$50.00 for any payments submitted after the Grace Period.

19.5. Option of Landlord to Pay. If Tenant defaults in making any payment of monies to any person or for any purpose as may be required hereunder, Landlord may at its option pay such expense but Landlord shall not be obligated to do so. If Landlord elects to pay such expense, Tenant agrees to promptly reimburse Landlord for the entire amount thereof. All monies payable by Tenant to Landlord hereunder shall constitute Additional Rent hereunder and shall be collectable by Landlord from Tenant, and shall be due from Tenant to Landlord on the first day of the month following the payment of the expense by Landlord.

19.6. Additional Rights and Remedies. In addition to Landlord's rights and remedies specified herein, Landlord shall also be entitled to exercise any and all other remedies at law or in equity. Landlord's failure to promptly exercise any rights granted hereunder shall not operate to waive or to forfeit such rights.

20. Default by Landlord. The failure of Landlord to perform any of the covenants, conditions and agreements of the Lease which are to be performed by Landlord and the continuance of such failure for a period of sixty (60) days after notice thereof in writing from Tenant to Landlord (which notice shall specify the respects in which Tenant contends that Landlord failed to perform any such covenant, conditions and agreements) shall constitute an "Event of Landlord Default", unless such default is one which cannot be cured within sixty (60) days and Landlord within such sixty (60) day period shall have commenced and thereafter shall continue diligently to prosecute all actions necessary to cure such defaults.

If an Event of Landlord Default shall occur, Tenant shall have the right to pursue any of the following remedies: (i) the right to terminate this Lease by giving notice of such election to Landlord within thirty (30) days of the Event of Landlord Default, whereupon this Lease shall terminate as of the date of such notice, or (ii) the right to a writ of mandamus, injunction or other similar relief, available to it under Florida law against Landlord. Tenant agrees and acknowledges that, to the extent permitted by applicable law, in no event shall Tenant be entitled to damages hereunder and any remedies pursued in connection with this Lease shall be subject to Section 40.

21. Indemnity Against Costs and Charges.

21.1. Costs and Charges. Tenant shall be liable to Landlord for all costs, charges, expenses, reasonable attorney's fees at all levels, and damages which may be incurred or sustained by Landlord as a result of Tenant's breach of any of the provisions of this Lease. Any sums due to Landlord under the provisions of this Lease shall constitute a lien against the interest of Tenant and the Leased Premises and all of Tenant's property situated thereon to the same extent and on the same conditions as delinquent rent would constitute a lien on the Leased Premises.

21.2. Attorney's Fees. If Tenant shall at any time be in default hereunder, and if Landlord shall deem it necessary to engage an attorney to enforce Landlord's rights and Tenant's obligations hereunder, Tenant agrees to promptly reimburse Landlord for the reasonable expenses incurred thereby, including, but not limited to, court costs and reasonable attorney's fees, whether suit be brought or not and if suit be brought, then Tenant shall be liable for expenses incurred at both the trial and all appellate levels.

22. Indemnification Against Claims.

22.1. Certain Claims. Landlord shall not be liable to Tenant, its agents, servants, employees, contractors, customers, or invitees for any damage to person or property caused by any act, omission, or neglect of Tenant. Without limiting or being limited by any other indemnity in this Lease, but rather in confirmation and furtherance thereof, Tenant shall indemnify and save Landlord, its affiliates, employees and agents harmless from and against any and all losses, damages, liabilities, claims, liens, costs and expenses (including, but not limited to, court costs, reasonable attorneys' fees and litigation expenses at all levels) in connection with injury to or death of any person or damage to or theft, loss or loss of the use of any property occurring in or about the Leased Premises or the Building or arising from Tenant's use and occupancy of the Leased Premises, or from the conduct of its business or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Leased Premises or the Building, or occasioned in whole or in part by any of the following:

22.1.1. An act or omission on the part of Tenant, or any employee, agent, contractor, invitee, guest, assignee or sub-tenant of Tenant;

22.1.2. Any misuse, neglect, or unlawful use of the Leased Premises or any of its facilities by Tenant, or any employee, agent, contractor, invitee, or guest, assignee or sub-tenant of Tenant, excluding trespassers upon the Leased Premises;

22.1.3. Any breach, violation, or non-performance of any undertaking of Tenant under this Lease; or

22.1.4. Any other damage, injury or loss in connection with the use or occupancy of the Leased Premises by Tenant or anyone holding or claiming to hold through or under the Lease.

22.2. Repair. Tenant agrees to promptly repair at Tenant's cost all damages to the Leased Premises or other facilities used in connection therewith, caused by Tenant, its contractors, agents, employees or invitees.

22.3. Defense of Claims. If any claim, action, or proceeding is made or brought against Landlord by reason of any act or omission of Tenant, its contractors, agents, employees or invitees, then, upon demand by Landlord, Tenant at its sole cost and expense, shall resist or defend such claim, action or proceeding on behalf of Landlord, by the attorneys for Tenant's insurance carrier (if such claim, action, or proceeding is covered by insurance), and otherwise by such attorneys as Landlord shall approve, which approval shall not be unreasonably withheld.

23. Signs and Advertising. Except for temporary promotional signage and banners for Miami City Ballet events which comply with all applicable codes and governmental requirements, Tenant shall not permit the painting and display of any additional signs, plaques, lettering or advertising material of any kind on the Leased Premises which did not exist on the Effective Date, without the prior written consent of Landlord. All additional signage shall comply with any signage standards established by Landlord (including, without limitation, the City's Naming Ordinance, as codified in Chapter 82, Article VI, Sections 82-501 through 82-505 of the City Code, if applicable,

and provided that Tenant has not been expressly exempted from the provisions therein), all applicable building codes, and any other municipal, county, state and federal laws.

Unless Landlord (acting by and through its City Manager) shall otherwise agree in writing, the Leased Premises shall bear the name "Ophelia & Juan Js. Roca Center" throughout the Term of this Lease and all existing signage on the exterior or interior of the Leased Premises shall be maintained throughout the Term. At all times during the Lease Term, Tenant shall comply with the City's Naming Ordinance, provided that Tenant has not been expressly exempted from the provisions therein.

24. Effect of Conveyance. The term "Landlord" as used in this Lease means only the owner of the Land and the Leased Premises on the Effective Date, so that in the event of any sale of the Land or Leased Premises, or in the event of a lease of such Land or Leased Premises, Landlord shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord hereunder, and it shall be deemed and construed without further agreement between the parties, or between the parties and the purchaser at such sale, or the lease of the Building, that the purchaser or Tenant has assumed and agreed to carry out all covenants and obligations of Landlord hereunder.

25. Damage to the Leased Premises.

25.1. Casualty Damage.

25.1.1. Leased Premises Usable. In the event the Leased Premises shall be damaged by fire, explosion or any other casualty or occurrence not due to Tenant's negligence (hereinafter collectively referred to as the "damaged property"), and such damage does not render the Leased Premises untenable in whole or in part, as determined by Landlord, in whole or in part, and such damage is covered by Landlord's insurance, if any, Landlord, shall, as soon as practicable, utilize the insurance proceeds to repair the damaged property; provided, however, that the Base Rent and Additional Rent due hereunder shall not be abated.

25.1.2. Leased Premises Unusable. In the event the damaged property renders the Leased Premises untenable in whole or in part, as determined by Landlord, Landlord shall as soon as practicable utilize the insurance proceeds to repair the damaged property, and the rent shall be abated proportionately as to the portion of the Leased Premises rendered untenable until such time as Tenant may reopen for business after restoration or repair of the damaged property; provided, however, that Landlord shall have the right to elect not to repair or restore the damaged property, and in such event, this Lease and the tenancy hereby created shall cease as of the date of said occurrence of damage or casualty, with any rent to be adjusted as of such date. Notwithstanding the foregoing, in the event (a) Landlord elects not to restore or repair the damage; (b) Tenant gives written notice to Landlord within sixty (60) days of the casualty that Tenant is willing to repair the damage with its own funds; (c) within six (6) months following such notice, Tenant proves, to Landlord's sole satisfaction and discretion, that it has adequate funds immediately available to effect the repair; and (d) Landlord and Tenant, each acting in its reasonable discretion, agree within sixty (60) days after Landlord deems that Tenant has demonstrated that it has adequate funds

to effect the repair, to the conditions, timing, plans, procedures, contractors, subcontractors, disbursement mechanisms and other matters with respect to the repair, then and in that event, Tenant shall be entitled to effect the repair with its own funds; provided that Tenant must complete any and all repairs and/or restoration no later than eighteen (18) months from the date of Landlord's approval of Tenant's funding capability (as provided in subsection (c) above).

25.2. Other Damage. Landlord shall not be liable or responsible to Tenant for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, riot, strike, insurrection, war, act or omission of any tenant or occupant of the Leased Premises, any nuisance or interference caused or created by any tenant or occupant of the Leased Premises, requisition or order of governmental body or authority, court order or injunction, or any cause beyond Landlord's reasonable control or, except in the case of the gross negligence or intentional misconduct of Landlord, for any damage or inconvenience which may arise through repair or alteration of any part of the Leased Premises. Tenant shall notify Landlord of any damage to the Leased Premises, regardless of the cause of such damage.

26. Waiver of Subrogation Rights. Notwithstanding anything to the contrary contained in this Lease, Tenant hereby waives any and all rights of recovery, claim, action or cause of action, against Landlord, its agents, servants, officers or employees, for personal injury, loss or damage to business, and loss or damage that may occur to the Leased Premises, the Building or any improvements thereto or thereon or any personal property of such party therein or thereon by reason of fire, the elements, or any other cause insured under any insurance policy maintained by Landlord or Tenant, as applicable, regardless of cause or origin, including negligence of the other party hereto, its agents, officers, partners, shareholders, servants or employees, and covenants that no insurer shall hold any right of subrogation against such other party. The foregoing waiver shall apply regardless of the cause or origin of such claim, including, but not limited to, the negligence of a party, or such party's agents, officers, employees or contractors, but shall not apply if it would have the effect, but only to the extent of such effect, of invalidating any insurance coverage of Landlord or Tenant. Tenant shall obtain any special endorsements, if any, required to evidence compliance with the aforementioned waiver.

27. Quiet Enjoyment. Tenant shall have quiet enjoyment of the Leased Premises and shall not be evicted or disturbed in possession of the Leased Premises by persons claiming by, through or under Landlord so long as Tenant complies with the terms and conditions of this Lease.

28. Waiver.

28.1. Continuing Rights. It is mutually covenanted and agreed to by the parties hereto that the failure of Landlord to insist upon the strict performance of any of the conditions, covenants, terms or provisions of this Lease, or to exercise any option herein conferred, shall not be considered or construed as a waiver or relinquishment of any such conditions, covenants, terms, provisions or options but the same shall continue and remain in full force and effect.

28.2. Receipt of Funds. The receipt of any sum paid by Tenant to Landlord after breach of any condition, covenant, term or provision herein contained shall not be deemed a waiver

of such breach, but shall be taken, considered and construed as payment for use and occupancy, and not as rent, unless such breach is expressly waived by Landlord in writing.

29. Public Benefits. As prime consideration for the granting of this Lease, Tenant agrees to comply with, and provide to Landlord the public benefits set forth in Exhibit B (the "Public Benefits") hereto throughout the Lease Term.

29.1. Continuation of Public Benefits. Tenant acknowledges that the continued provision of the Public Benefits is a prime consideration for Landlord's granting of this Lease. To that end, no Public Benefit may be materially altered, suspended, or terminated without Landlord's prior written consent, which consent will not be unreasonably withheld.

29.2. Request to Change Public Benefits. If Tenant determines, in its reasonable judgment, that one or more of the Public Benefits cannot be provided because they are either not financially self-sustaining or generating sufficient public interest, Tenant shall provide Landlord with a minimum of sixty (60) days prior written notice (a "Benefit Termination Notice"), which notice shall:

29.2.1. set forth the reason that the Benefit can no longer be provided;

29.2.2. include financial documentation in support of the argument that the Benefit is not financially feasible or self-sustaining or generating sufficient public interest;

29.2.3. provide the date upon which Tenant intends to cease providing the Benefit; and

29.2.4. provide at least two (2) alternative Benefits of equal or greater value than the Benefit being terminated, and a proposed commencement date for the new Benefit .

29.3. Landlord's Review of Request to Change Benefit. Upon Landlord's receipt and review of a Benefit Termination Notice, Landlord (acting through its City Manager), in its reasonable discretion, may:

29.3.1. approve Tenant's request to terminate the Public Benefit, and advise Tenant of Landlord's selection of the new Benefit from the options presented by Tenant, and thereafter Landlord and Tenant shall amend the Public Benefits exhibit to this Lease; or

29.3.2. approve Tenant's request to terminate the Public Benefit, but require Tenant to provide additional options for the new Benefit (other than the options provided in the Benefit Termination Notice), which additional options shall be submitted to Landlord within thirty (30) days after Landlord requests the additional options.

29.4. Failure to Agree on Public Benefit Change. If, after making a diligent, good faith effort, Landlord and Tenant are unable to agree upon the provision of a new Benefit within one year after receipt of Tenant's Benefit Termination Notice, then Landlord, at its sole option and discretion, may declare the Lease in default, pursuant to Section 18 of the Lease.

30. MPAC Performances. During the Term Tenant agrees to perform as a resident company at the Miami Performing Arts Center ("MPAC") located in the City of Miami beginning in October 2006. Tenant's obligation to perform at the MPAC is subject, however, to the following conditions:

30.1. MPAC in Operation. Tenant's obligations shall only arise after the MPAC is open for business and shall continue only during periods in which the MPAC remains in operation.

30.2. Financial Viability. Landlord will perform an annual evaluation during May of each calendar year to determine Tenant's financial success at MPAC, with the first evaluation to take place two years after Tenant commences performing at MPAC.

30.3. Return to Jackie Gleason Theater of the Performing Arts (TOPA). If either Landlord or Tenant reasonably determines that performing at MPAC is not financially practical for Tenant, and TOPA remains available for performances, Tenant shall return to TOPA for its Miami-Dade subscription season performances as soon as reasonably practical and will continue to perform its season performances there so long as TOPA is available. If TOPA is no longer available for performances, Tenant may stage its major productions at MPAC, and stage its smaller productions at other locations within the City of Miami Beach, including Tenant's own studio theater.

30.4. Acknowledgment of Landlord. Tenant agrees to include an acknowledgment of Landlord prominently displayed in all printed Playbills, with the language for such acknowledgment to be approved by the City Manager.

31. Estoppel Certificate. Within ten (10) days after request by Landlord or Tenant, or in the event that upon any sale, assignment, or hypothecation of the property by Landlord, an estoppel certificate shall be required from the other, Tenant and Landlord agree to deliver in recordable form a certificate to any proposed mortgagee or purchaser, or to Landlord or Tenant or their respective designee, certifying, if applicable, that this Lease is in full force and effect and that there are no defenses or off-sets thereto, or stating those claims by Tenant or Landlord.

32. Landlord and Tenant not in Business Together. It is understood and agreed that neither Landlord nor Tenant shall in any event be construed or held to be partner or co-venturer of the other party, nor shall either party be liable for any debts incurred by the other party in the conduct of their respective businesses, but it is understood and agreed that the relationship is and at all times shall remain that of landlord and tenant.

33. Availability of Leased Premises. Tenant shall continue to make the Leased Premises available to the City of Miami Beach as a polling place for all elections as well as an emergency management command center during hurricanes or other emergency situations.

34. Notices. For purpose of giving any notice to, or making any demand or request of, any party of matters relating to this Lease, such notice, demand or request shall be given in writing and shall be sent by facsimile (with electronic transmission confirmed) or delivered by hand, certified mail (return receipt requested), or overnight courier, postage and fees pre-paid, to the

following addresses (or at such other addresses as may be designated in writing by the parties) and shall be deemed effective upon receipt:

Landlord:

City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

With copies to (which shall not constitute notice):

City Attorney
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

and:

Asset Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Tenant:

Miami City Ballet, Inc.
Attn: Executive Director
2200 Liberty Avenue
Miami Beach, Florida 33139

With copy to (which shall not constitute notice):

Weiss Serota Helfman Pastoriza Cole & Boniske, PA
2665 South Bayshore Drive, Suite 420
Miami, Florida 33156
Attn: Gail D. Serota, Esq.

35. Entire and Binding Agreement. This Lease contains all of the agreements between the parties hereto, and it may not be modified in any manner other than by agreement in writing signed by all the parties hereto or their successors in interest. The terms, covenants and conditions contained herein shall inure to the benefit of and be binding upon Landlord and Tenant and their respective successors and assigns, except as may be otherwise expressly provided for in this Lease.

36. Provisions Severable. If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

37. Captions. The captions contained herein are for convenience and reference only and shall not be deemed a part of this Lease or construed as in any manner limiting or amplifying the terms and provisions of this Lease to which they relate.

38. Number and Gender. Whenever used herein, the singular shall include the plural and the plural shall include the singular, and the use of one gender shall include all genders.

39. Governing Law. This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Florida.

40. Limitation of Liability. The Landlord desires to enter into this Lease only if it can limit Landlord's liability for any cause of action for money damages due to an alleged breach by Landlord of this Lease, so that its liability for any such breach never exceeds the sum of **Ten Thousand Dollars and no/100 (\$10,000.00)**. Tenant hereby expresses its willingness to enter into this Lease with Tenant's recovery from Landlord for any damage action for breach of contract to be limited to a maximum amount of **Ten Thousand (10,000.00) Dollars**. Accordingly, and notwithstanding any other term or condition of this Lease, Tenant hereby agrees that Landlord shall not be liable to Tenant for damage in an amount in excess of **Ten Thousand (\$10,000.00) Dollars** for any action or claim for breach of contract arising out of the performance or non-performance of any obligations of Landlord under this Landlord. Nothing contained in this Section 40 or elsewhere in this Lease is in any way intended to be a waiver of the limitation placed upon Landlord's liability as set forth in Florida Statutes, Section 768.28.

41. Surrender of the Leased Premises. The Tenant shall, on or before the last day of the Term, or the sooner termination thereof, peaceably and quietly leave, surrender and yield upon to Landlord the Leased Premises, together with any and all equipment, fixtures, furnishings, appliances or other personal property, if any, located at or on the Leased Premises and used by Tenant in the maintenance, management or operation of the Leased Premises, excluding any trade fixtures or personal property, if any, which can be removed without damage or injury to the Leased Premises, free of all liens, claims and encumbrances and rights of others or broom-clean, together with all structural changes, alterations, additions, and Improvements which may have been made upon the Leased Premises, in good order, condition and repair, reasonable wear and tear excepted, subject, however, to the subsequent provisions of this Section 41. Any property which pursuant to the provisions of this Section is removable by Tenant on or at the Leased Premises upon the termination of this Lease and is not so removed may, at the option of Landlord, be deemed abandoned by Tenant, and either may be retained by Landlord as its property or may be removed and disposed of at the sole cost of Tenant in such manner as Landlord may see fit. If the Leased Premises and personal property, if any, are not surrendered at the end of the Term as provided in this Section, Tenant shall compensate Landlord for all damages which Landlord may suffer by reason thereof, and shall indemnify and hold Landlord harmless against all claims made by any succeeding tenant or

purchaser, so far as such delay is occasioned by the failure of Tenant to surrender the Leased Premises as and when herein required.

42. Time is of the Essence. Time is of the essence in every particular and particularly where the obligation to pay money is involved.

43. Venue. This Lease shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida.

44. Waiver of Jury Trial. LANDLORD AND TENANT HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT LANDLORD AND TENANT MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS LEASE.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the date and year first above mentioned.

ATTEST:

Robert Paucher
CITY CLERK

LANDLORD:

CITY OF MIAMI BEACH, FLORIDA

By: [Signature]
MAYOR

WITNESSES:

Gail D. Serota
Print Name: Gail D. Serota

Mark B. Rosenblum
Print Name: Mark B. Rosenblum

TENANT:

MIAMI CITY BALLET, INC.,
a Florida not-for-profit corporation

By: [Signature]
PRESIDENT
Lewis S. Eidson
Print Name

CORPORATE SEAL
(affix here)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

[Signature] 2-8-06
City Attorney Date

Exhibit "A"
Legal Description

A part of Section 34, Township 53 South, Range 42 East, being more particularly described as follows:

Commence at the intersection of the center lines of Meridian Avenue and 17th Street, as shown in the Amended Plat of Golf Course Subdivision of the Alton Beach Realty Company, recorded in Plat Book 6, Page 26, Public Records of Dade County, Florida; thence run South 89 degrees 59' 05" East, along the center line of 17th Street for a distance of 768.52 feet to a point; thence run North 0 degrees 00' 58" West for a distance of 173.38 feet to the POINT OF BEGINNING; thence continue along the last described bearing for a distance of 33.12 feet to a point; thence run North 89 degrees 59' 52" East for a distance of 99.24 feet to a point; thence run North 0 degrees 06' 53" West, for a distance of 144.02 feet to a point; thence run North 89 degrees 56' 37" West, for a distance of 195.00 feet to a point of tangency; thence run along the arc of a circular curve concave to the Southeast having a central angle of 50 degrees 06' 23" and a radius of 40.00 feet for a distance of 34.98 feet to a point on intersection with a circular curve which radius bears North 70 degrees 28' 44" East from said point of intersection; thence run along the arc of said curve, which is concave to the Northeast, having a central angle of 30 degrees 40' 19" and a radius of 155.00 feet for a distance of 82.98 feet to a point; thence run South 44 degrees 26' 55" East for a distance of 51.26 feet to a point located on a circular curve which radius bears South 45 degrees 33' 05" West from said point; thence run along the arc of a circular curve, concave to the Southwest having a central angle of 16 degrees 12' 58" and a radius of 260.29 feet for a distance of 73.67 feet to the POINT OF BEGINNING.

EXHIBIT "B"

PUBLIC BENEFITS

Commencing with the 2006-2007 season, and for each successive season thereafter throughout the term of the Lease, Miami City Ballet ("MCB") will organize and administer the following programs exclusively for the residents of Miami Beach:

1. Provided that the new Contemporary Dance Series is financially self-sustaining during the 2005-2006 season, MCB will continue to produce this series each season. The series will include a minimum of 2 programs each season, with 3 performances of each program.
2. MCB or its school will produce at least one Young People's Program, per season, for children and families.
3. MB (My Beach/My Ballet) Days at MCB: For each month that the dancers are on contract, MCB will designate a special day, for Miami Beach residents only, to attend a rehearsal in its studios. Miami Beach ID and advance reservation will be required.
4. Free attendance at a rehearsal for the Miami City Ballet School's annual Student Showcase program. Miami Beach ID and advance reservation will be required.
5. The Miami City Ballet School will award at least ten (10) financial scholarships each season to talented children with financial need who are residents of Miami Beach.
6. Arts students (music, dance, visual arts, etc.) enrolled at Miami Beach High School may sign up to attend a free studio rehearsal.
7. MCB will give a minimum of 100 free tickets to each of its performance series (Programs 1 through 4 and The Nutcracker) at Miami Performing Arts Center (MPAC), or in the event MCB is no longer performing at MPAC, at the nearest successor South Florida venue, to Miami Beach-based charitable organizations that serve children and seniors.
8. Miami Beach residents who are registered voters will receive a 10% discount in the MCB gift shop.
9. MCB will provide the following number of complimentary tickets to the City of Miami Beach each annual performance season: 26 tickets per program at Jackie Gleason Theater of the Performing Arts (TOPA) or MPAC; 18 tickets per program at the Byron-Carlyle Theater, Colony Theater, or at MCB's in-house performance facility.

Exhibit B
Security Documents
(See Attached)

SECURITY AGREEMENT

THIS AGREEMENT is made as of May 31, 2016, by MIAMI CITY BALLET, INC., a Florida non-profit corporation (the "Borrower"), whose address is 2200 Liberty Ave., Miami Beach, FL 33139, and BANK OF AMERICA, N.A. (the "Bank"), whose address is Bank of America, N.A., Doc Retention, NC1-001-05-13, One Independence Center, 101 North Tryon St, Charlotte, NC 28255-0001.

Recitals

The Borrower and the Bank have entered into that certain Loan Agreement (as amended or restated from time to time, the "Loan Agreement"), of even date herewith, pursuant to which the Bank has provided or continued to provide that certain line of credit (the "Loan") to the Borrower, as more particularly described in the Loan Agreement. The Loan is evidenced by that certain Promissory Note (as amended, extended or renewed from time to time, the "Note"), of even date herewith, executed by the Borrower in favor of the Bank in the original principal amount of \$1,500,000.00.

The Borrower has agreed to secure certain obligations in accordance with the terms hereof.

Now therefore, for good and valuable consideration, the parties agree as follows:

1. Defined Terms. Capitalized terms not otherwise defined that are defined in the UCC shall have the meaning set forth therein. In addition to any other terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

"Accounts" shall mean all accounts as that term is defined in the UCC and all rights of the Borrower now existing and hereafter acquired in relation to payment for goods sold or leased or for services rendered that are not evidenced by an Instrument or Chattel Paper, whether or not earned by performance, together with (i) all security interests or other security held by or granted to the Borrower to secure such rights to payment, (ii) all other rights related thereto (including rights of stoppage in transit) and (iii) all rights in any of such sold or leased goods that are returned or repossessed.

"Additional Revenues" shall mean (to the fullest extent the Borrower may grant a security interest therein): (a) all of the Borrower's receipts from unrestricted pledges, unrestricted endowments, unrestricted capital campaign funds, maintenance fees, use fees, dues and other similar amounts.

"Chattel Paper" shall mean all chattel paper as that term is defined in the UCC and any document or documents that evidence both a monetary obligation and a security interest in, or a lease or consignment of, specific goods (except, however, that when a transaction is evidenced both by a security agreement or a lease and by an Instrument or series of Instruments, the group of documents taken together constitute Chattel Paper).

"Collateral" shall mean all of the following assets (whether now owned or existing or hereafter acquired or arising) in which the Borrower now has or hereafter acquires any right, title or interest: (a) all of the Borrower's Accounts, Additional Revenues, Chattel Paper, Contract Rights, Deposit Accounts, Documents, Equipment (subject to the limitations set forth herein), Fixtures, General Intangibles, Receivables, Instruments and Inventory; (b) all of the Borrower's cash, bank accounts, special collateral accounts, uncertificated securities (as that term is defined in the UCC) and insurance policies; (c) all of the Borrower's books and records (in whatever form or medium), customer lists, credit files, computer files, programs, printouts, source codes, software and other computer materials and records related to any of the foregoing; (d) all monies

and property of the Borrower in the possession or under the control of the Bank or any agent or affiliate thereof; and (e) all Proceeds (including, without limitation, all proceeds as that term is defined in the UCC), insurance proceeds, unearned premiums, tax refunds, rents, profits and products thereof; provided, however, that "Collateral" shall not include any restricted pledges, restricted endowments, restricted investments or other similarly restricted funds (collectively, the "Restricted Accounts").

"Contract Rights" shall mean any right to payment under a contract not yet earned by performance and not evidenced by an Instrument or Chattel Paper.

"Deposit Accounts" shall mean all deposit accounts and all moneys, securities, instruments and other assets therein from time to time.

"Documents" shall mean all documents as that term is defined in the UCC and all documents of title and goods evidenced thereby (including, without limitation, all bills of lading, dock warrants, dock receipts, warehouse receipts and orders for the delivery of goods), together with any other document that in the regular course of business or financing is treated as adequately evidencing that the person or entity in possession of it is entitled to receive, hold and dispose of such document and the goods it covers.

"Equipment" shall mean all equipment as that term is defined in the UCC and all equipment (including, without limitation, all machinery, vehicles, tractors, trailers, office equipment, communications systems, computers, furniture, tools, molds and goods) owned, used or bought for use in the Borrower's business whether now owned, used or bought for use or hereafter acquired, used or bought for use and wherever located, together with all accessories, accessions, attachments, parts and appurtenances thereto. Notwithstanding the foregoing, "Equipment" does not include: (a) equipment leased from third parties under capital leases obtained by the Borrower in the ordinary course of Borrower's business and disclosed to the Bank prior to the date hereof, and (b) golf course equipment, including, but not limited to golf carts.

"Fixtures" shall mean all fixtures as that term is defined in the UCC and all goods that are or are to be attached to real property in such a manner that their removal would cause damage to the real property and that have therefore taken on the character of real property.

"General Intangibles" shall mean all general intangibles as that term is defined in the UCC and all payment intangibles and all intangible personal property of every kind and nature other than Accounts. General Intangibles include, without limitation, all Contract Rights, other rights to receive payments of money, choses in action, security interests, indemnification claims, judgments, tax refunds and tax refund claims, royalty and product rights, inventions, work in progress, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications, permits, licenses, franchises, leasehold interests in real or personal property, rights to receive rentals of real or personal property or payments under letters of credit, insurance proceeds, know-how, trade secrets, other items of intellectual property, goodwill (whether or not associated with any of the foregoing), computer software and guarantee claims.

"Instruments" shall mean all instruments (as that term is defined in the UCC) and all negotiable instruments, Member Debt Instruments (as defined in Section 5(c) of this Agreement) certificated securities (as that term is defined in the UCC) and any replacements therefor and stock rights related thereto, and other writings that evidence rights to the payment of money (whether absolute or contingent) and that are not themselves security agreements or leases and are of a type that in the ordinary course of business are transferred by delivery with any necessary endorsement or assignment (including, without limitation, all checks, drafts, notes, bonds, debentures, government securities, certificates of deposit, letters of credit, preferred and common stocks, options and warrants).

"Inventory" shall mean all inventory as that term is defined in the UCC and all goods (as that term is defined in the UCC) other than Equipment and Fixtures.

"Proceeds" shall mean all proceeds (as that term is defined in the UCC) and any and all amounts or items of property received when any Collateral or proceeds thereof are sold, exchanged, collected or otherwise disposed of, both cash and non-cash, including proceeds of insurance, indemnity, warranty or guarantee paid or payable on or in connection with any Collateral.

"Receivables" shall mean all Accounts, Additional Revenues, Chattel Paper, payment intangibles and Contract Rights and all Instruments representing rights to receive payments.

"UCC" shall mean the Uniform Commercial Code as in effect in any applicable jurisdiction.

2. Security Interest. The Borrower hereby: (a) gives the Bank a continuing and unconditional security interest (the "Security Interest") in the Collateral; and (b) collaterally assigns all of its right, title and interest in and to the Collateral to the Bank.

3. Obligations Secured. The Security Interest secures payment when due of all Secured Obligations (as defined herein) to the Bank. As used in this Agreement, the term "Secured Obligations" means: (a) all principal, interest, costs, expenses and other amounts now or hereafter due under the Loan Agreement (including, without limitation, all principal amounts advanced as part of any Loan before, on or after the date hereof) and/or the Note; and (b) all other amounts now or hereafter payable by the Borrower under any of the Loan Documents (as such term is defined in the Loan Agreement).

The Collateral also secures all obligations to the Bank arising under any Swap Contract and any Treasury Services Contract now or hereafter entered into between the Borrower and the Bank; provided, that with respect to the Borrower, the Collateral of the Borrower shall not secure obligations arising under any Swap Contract to which it is not party if, and to the extent that, all or a portion of the guaranty by the Borrower to the Bank of, or the grant by the Borrower of a security interest to the Bank to secure, such Swap Contract, would violate the Commodity Exchange Act by virtue of the Borrower's failure to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time such guaranty or grant of such security interest becomes effective with respect to such Swap Contract. "Commodity Exchange Act" means 7 U.S.C. Section 1 *et seq.*, as amended from time to time, any successor statute, and any rules, regulations and orders applicable thereto. All of the obligations secured under this Agreement are collectively referred to as the "Indebtedness."

"Swap Contract" means any interest rate, credit, commodity or equity swap, cap, floor, collar, forward foreign exchange transaction, currency swap, cross currency rate swap, currency option, securities puts, calls, collars, options or forwards or any combination of, or option with respect to, these or similar transactions. "Treasury Services Contract" means any contract between the Borrower and the Bank covering treasury management services, including, but not limited to, intraday credit, Automated Clearing House (ACH) services, foreign exchange services, daylight overdrafts, corporate credit card programs, wire transfers, electronic funds transfers, electronic trade services, controlled disbursement and zero balance arrangements.

Except as otherwise agreed in writing by the Bank and the Borrower, if the Secured Obligations (as defined above) includes, now or hereafter, any Special Flood Zone Loan, then the following shall apply: The Special Flood Zone Loan shall not be secured under this Security Agreement by any Collateral which would constitute "contents" located within the Flood Zone Improvements. For the purposes of this subparagraph, (a) "Flood Zone Improvements" means any "improved" real property that is located within a Special Flood Hazard Area; (b) a "Special Flood Zone Loan" means a loan or line of credit which is secured by Flood Zone Improvements; and (c) the terms "improved" real property, "Special Flood Hazard Area" and "contents" shall have the meaning ascribed to them by the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4001 *et seq.*, and implementing regulations, 44 C.F.R. Parts 59 *et seq.*, and/or the

Federal Emergency Management Agency ("FEMA"). Notwithstanding the foregoing, it is the intent of the parties that all of the above listed collateral secure all of the Secured Obligations described above.

4. Warranties of Borrower. The Borrower warrants and so long as this Agreement continues in force shall be deemed continuously to warrant that:

(a) The Borrower is the owner of the Collateral free of all security interests or other encumbrances, except for the Security Interest and permitted liens (as set forth in the Loan Agreement).

(b) The Borrower is authorized to enter into the Security Agreement.

(c) The Collateral is used or bought for use primarily in business or professional operations.

(d) The Collateral is or will be located at the Borrower's address set forth above.

(e) The chief executive office of the Borrower is at the address set forth above.

(f) The exact legal name of the Borrower is set forth in the introductory paragraph hereof, and the jurisdiction of organization or incorporation of the Borrower is set forth in the Introductory paragraph hereof.

5. Covenants of Borrower.

(a) So long as this Agreement has not been terminated as provided hereafter, the Borrower: (i) will defend the Collateral against the claims of all other persons; (ii) will keep the Collateral free from all security interests or other encumbrances, except for the Security Interest and permitted liens (as set forth in the Loan Agreement); (iii) will not assign, deliver, sell, transfer, lease or otherwise dispose of (other than in the ordinary course of the Borrower's business) any of the Collateral or any interest therein without the prior written consent of the Bank, which shall not be unreasonably withheld, delayed or conditioned; (iv) will keep in accordance with generally accepted accounting principles consistently applied, accurate and complete records concerning the Collateral and will, at reasonable times and upon reasonable notice, permit the Bank or its agents to audit and make abstracts of such records or any of the Borrower's books, ledgers, reports, correspondence and other records; (v) within five (5) days of demand therefore, will deliver to the Bank copies of any contracts or other documents representing or relating to the Collateral and Proceeds thereof and any and all other schedules, documents and statements that the Bank may from time to time reasonably request; (vi) will not change the location of the Borrower's principal office without prior written notice to the Bank; (vii) will notify the Bank promptly in writing of any change in the Borrower's principal address, name or identity from that specified above or of any change in the location of the Collateral; (viii) will not change its legal name or reincorporate or reorganize itself under the laws of any other jurisdiction without prior written notice to the Bank; (ix) will, at reasonable times and upon reasonable notice, permit the Bank or its agents to inspect all records relating to the Collateral; (x) will execute and deliver to the Bank such financing statements and other documents reasonably requested by the Bank, and take such other action and provide such further assurances as the Bank may reasonably deem advisable to evidence, perfect or enforce the Security Interest created by this Agreement; and (xi) will pay when due all taxes, assessments and other charges of every nature that may be levied or assessed against the Collateral (unless the same are being contested in good faith).

(b) For so long as any Secured Obligations remain outstanding, the Borrower will maintain reasonably adequate policies of Insurance (the "Policies") to cover all property owned or operated by the Borrower against loss or damage (including loss by windstorm, fire, and flood, if applicable). The Borrower shall pay the premiums for the Policies as the same become due and payable. If requested by the Bank, the Borrower shall provide to the Bank evidence satisfactory

to the Bank that all Policies are in full force and effect. Upon request by the Bank, the Borrower shall furnish to the Bank a statement certified by a duly authorized officer of the Borrower of the amounts of insurance maintained in compliance with this section, a general description of the risks covered by such insurance and of the insurance company or companies which carry such insurance. The Bank has reviewed the Borrower's current insurance, and such insurance meets the Bank's requirements, and shall continue to be acceptable provided that such insurance is maintained at its current level and substantially in its current form.

6. Verification. The Bank may verify any Collateral in any reasonable manner and through any reasonable medium that the Bank may deem appropriate, and the Borrower shall furnish such assistance as the Bank may reasonably require in connection therewith.

7. Default.

(a) Following the expiration of any applicable notice and/or cure period, each of the following shall constitute an "Event of Default" hereunder: (i) the occurrence of any Event of Default under the Loan Agreement; (ii) failure by the Borrower to perform any material obligations under this Agreement; (iii) material falsity in any certificate, statement, representation, warranty or audit at any time furnished by or on behalf of the Borrower, pursuant to or in connection with this Agreement or otherwise to the Bank, including warranties in this Agreement and including any omission to disclose any substantial contingent or liquidated liabilities or any material adverse change in facts disclosed by any certificate, statement, representation, warranty or audit furnished to the Bank; or (iv) any material attachment or levy against the Collateral, provided that the Borrower shall have a period of thirty (30) days to either settle or bond off any such material lien which attaches to the Collateral provided that the Bank's rights hereunder are not prejudiced by the grant of such thirty (30) day cure period.

(b) Upon the occurrence of an Event of Default, the Bank may exercise such remedies and rights as are available hereunder, under the Loan Agreement or otherwise. This paragraph is not intended to affect or impair any rights of the Bank with respect to any Secured Obligations that may now or hereafter be payable on demand.

(c) Upon the occurrence of any Event of Default, the Bank's rights with respect to the Collateral shall be those of a secured party under the UCC and any other applicable law in effect from time to time. The Bank shall also have any additional rights granted herein and in any other agreement now or hereafter in effect between the Borrower and the Bank. If requested by the Bank after the occurrence of an Event of Default, the Borrower will assemble the Collateral and make it available to the Bank at a place to be designated by the Bank.

(d) The Borrower shall pay all reasonable costs and expenses incurred by the Bank in enforcing this Agreement, realizing upon any Collateral and collecting any Secured Obligations (including reasonable attorneys' fees) whether suit is brought or not and whether incurred in connection with collection, trial, arbitration, appeal or otherwise and, to the extent of the Borrower's liability for repayment of any of the Secured Obligations, shall be liable for any deficiencies in the event the Proceeds of disposition of the Collateral do not satisfy the Secured Obligations in full. Nothing contained herein shall be deemed to require the Bank to proceed against the Collateral or any part thereof before or as a condition to the pursuit of any of its other rights and remedies with respect to the Secured Obligations.

8. Miscellaneous.

(a) The Borrower authorizes the Bank to file financing statements and continuation statements and amendments thereto with respect to the Collateral without authentication by the Borrower to the extent permitted by law and the Borrower consents to and ratifies any filings made by the Bank prior to the date hereof. The Borrower agrees not to file any financing statement, amendment or termination statement with respect to the Collateral prior to the

payment and satisfaction in full of all Secured Obligations.

(b) The Borrower hereby irrevocably consents to any reasonable act by the Bank or its agents in entering upon any premises for the purposes of either (i) inspecting the Collateral (at reasonable times and with reasonable prior written notice) or (ii) taking possession of the Collateral after any Event of Default in any commercially reasonable manner. The Borrower hereby waives its right to assert against the Bank or its agents any claim based upon trespass or any similar cause of action for entering upon any premises where the Collateral may be located, provided that Bank complies with the notice required under this Section 8.

(c) Upon the Borrower's failure to perform any of its duties hereunder, and such failure continues for a period of thirty (30) days after written notice from the Bank to the Borrower of such failure, the Bank may, but it shall not be obligated to, perform any of the duties and the Borrower shall forthwith upon demand reimburse the Bank for any reasonable expenses incurred by the Bank in so doing.

(d) No delay or omission by the Bank in exercising any right hereunder or with respect to any Secured Obligations shall operate as a waiver of that or any other right, and no single or partial exercise of any right shall preclude the Bank from any other or further exercise of the right or the exercise of any other right or remedy. The Bank may cure any Event of Default by the Borrower in any reasonable manner without waiving the Event of Default so cured and without waiving any other prior or subsequent Event of Default by the Borrower.

(e) All rights and remedies of the Bank under this Agreement, the UCC, any other applicable law, shall be deemed cumulative and not in limitation of any other right or remedy of the Bank provided for thereunder or otherwise.

(f) The Bank may demand, collect and sue for all Proceeds (either in the Borrower's name or the Bank's name at the Bank's option), with the right to enforce, compromise, settle or discharge any Proceeds. From and after the occurrence and during the continuation of an Event of Default, the Borrower irrevocably appoints the Bank as the Borrower's attorney-in-fact to endorse the Borrower's name on all checks, commercial paper and other instruments pertaining to the Proceeds before or after the occurrence of an Event of Default.

(g) The rights and benefits of the Bank under this Agreement shall, if the Bank agrees, inure to any party acquiring an interest in the Secured Obligations or any part thereof.

(h) The terms "Bank" and "Borrower" as used in this Agreement include the successors or assigns of those parties.

(i) This Agreement may not be modified or amended nor shall any provision of it be waived except in writing signed by the Borrower and by an authorized officer of the Bank.

(j) This Agreement shall be governed and construed by Florida law and any other applicable laws in effect from time to time.

(k) The parties agree that this Agreement is intended to be as broad and inclusive as permitted by law. If any provision of this Agreement is held to be invalid or unenforceable, it is agreed that the balance of this Agreement shall, notwithstanding, be enforceable and continue in full force and effect to the fullest extent permitted by law or equity.

(l) This Agreement is a continuing agreement that shall remain in force until the last to occur of: (i) the payment in full of all Secured Obligations if such payment of the Secured Obligations has become final and is not subject to being refunded as a preference or fraudulent transfer under the Bankruptcy Code or other applicable law; (ii) the termination of all agreements

or obligations (whether or not conditional) of the Bank to extend credit to the Borrower; and (iii) the termination of the Loan Agreement.

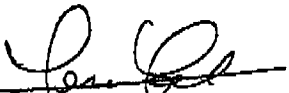
[SIGNATURES APPEAR ON FOLLOWING PAGE]

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EXECUTED and delivered as of the day and year first above written.

BANK OF AMERICA, N.A.

MIAMI CITY BALLET, INC.,
a Florida non-profit corporation

By 
Print Name: TEROME LERICHTE
Title: VICE PRESIDENT, FINANCIAL CONTROLLER

By 
Michael Scolamiero
Executive Director

**STATE OF FLORIDA UNIFORM COMMERCIAL CODE
FINANCING STATEMENT FORM**

FLORIDA SECURED TRANSACTION REGISTRY

FILED

2016 Jun 02 10:30 AM

***** 201607764162 *****

A. NAME & DAYTIME PHONE NUMBER OF CONTACT PERSON	
Pat Davidson, 904-930-4087	
B. Email Address	
C. SEND ACKNOWLEDGEMENT TO:	
Name	James L. Purcell, Jr.
Address	Stoneburner Berry Purcell & Campbell, PA
Address	200 West Forsyth Street, Suite 1610
City/State/Zip	Jacksonville, FL 32202

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - INSERT ONLY ONE DEBTOR NAME (1a OR 1b) - Do Not Abbreviate or Combine Names

1.a ORGANIZATION'S NAME				
MIAMI CITY BALLET, INC.				
1.b INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
1.c MAILING ADDRESS Line One		This space not available.		
2200 LIBERTY AVENUE				
MAILING ADDRESS Line Two	CITY	STATE	POSTAL CODE	COUNTRY
	MIAMI BEACH	FL	33139	USA

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - INSERT ONLY ONE DEBTOR NAME (2a OR 2b) - Do Not Abbreviate or Combine Names

2.a ORGANIZATION'S NAME				
2.b INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
2.c MAILING ADDRESS Line One		This space not available.		
MAILING ADDRESS Line Two	CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - INSERT ONLY ONE SECURED PARTY (3a OR 3b)

3.a ORGANIZATION'S NAME				
BANK OF AMERICA, N.A.				
3.b INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
3.c MAILING ADDRESS Line One		This space not available.		
DOC RETENTION, NC1-001-05-13				
MAILING ADDRESS Line Two	CITY	STATE	POSTAL CODE	COUNTRY
ONE INDEPENDENCE CENTER, 101 N. TRYON ST.	CHARLOTTE	NC	28255-0001	USA

4. This FINANCING STATEMENT covers the following collateral:

The collateral shall include all of the assets identified on Schedule 1 attached hereto.

5. ALTERNATE DESIGNATION (if applicable)	<input type="checkbox"/> LESSEE/LESSOR	<input type="checkbox"/> CONSIGNEE/CONSIGNOR	<input type="checkbox"/> BAILEE/BAILOR
	<input type="checkbox"/> AG LIEN	<input type="checkbox"/> NON-UCC FILING	<input type="checkbox"/> SELLER/BUYER

6. Florida DOCUMENTARY STAMP TAX - YOU ARE REQUIRED TO CHECK EXACTLY ONE BOX

<input checked="" type="checkbox"/> All documentary stamps due and payable or to become due and payable pursuant to s. 201.22 F.S., have been paid.
<input type="checkbox"/> Florida Documentary Stamp Tax is not required.

7. OPTIONAL FILER REFERENCE DATA

SCHEDULE 1

The Collateral shall include:

Collateral shall mean all of the following assets (whether now owned or existing or hereafter acquired or arising) in which the Debtor now has or hereafter acquires any right, title or interest: (a) all of the Debtor's Accounts, Additional Revenues, Chattel Paper, Contract Rights, Deposit Accounts, Documents, Equipment (subject to the limitations set forth herein), Fixtures, General Intangibles, Receivables, Instruments and Inventory; (b) all of the Debtor's cash, bank accounts, special collateral accounts, uncertificated securities, and insurance policies; (c) all of the Debtor's books and records (in whatever form or medium), customer lists, credit files, computer files, programs, printouts, source codes, software and other computer materials and records related to any of the foregoing; (d) all monies and property of the Debtor in the possession or under the control of the Secured Party or any agent or affiliate thereof; and (e) all Proceeds (including, without limitation, all proceeds, insurance proceeds, unearned premiums, tax refunds, rents, profits and products thereof; provided, however, that "Collateral" shall not include any restricted pledges, restricted endowments, restricted investments or other similarly restricted funds (collectively, the "Restricted Accounts"). The Collateral shall also have the following meanings:

"Accounts" shall mean all accounts and all rights of the Debtor now existing and hereafter acquired in relation to payment for goods sold or leased or for services rendered that are not evidenced by an Instrument or Chattel Paper, whether or not earned by performance, together with (i) all security interests or other security held by or granted to the Debtor to secure such rights to payment, (ii) all other rights related thereto (including rights of stoppage in transit) and (iii) all rights in any of such sold or leased goods that are returned or repossessed.

"Additional Revenues" shall mean (to the fullest extent the Debtor may grant a security interest therein): (a) all of the Debtor's receipts from unrestricted pledges, unrestricted endowments, unrestricted capital campaign funds, maintenance fees, use fees, dues and other similar amounts.

"Chattel Paper" shall mean all chattel paper and any document or documents that evidence both a monetary obligation and a security interest in, or a lease or consignment of, specific goods (except, however, that when a transaction is evidenced both by a security agreement or a lease and by an Instrument or series of Instruments, the group of documents taken together constitute Chattel Paper).

"Contract Rights" shall mean any right to payment under a contract not yet earned by performance and not evidenced by an Instrument or Chattel Paper.

"Deposit Accounts" shall mean all deposit accounts and all moneys, securities, instruments and other assets therein from time to time.

"Documents" shall mean all documents, and all documents of title and goods evidenced thereby (including, without limitation, all bills of lading, dock warrants, dock receipts, warehouse receipts and orders for the delivery of goods), together with any other document that in the regular course of business or financing is treated as adequately evidencing that the person or entity in possession of it is entitled to receive, hold and dispose of such document and the goods it covers.

"Equipment" shall mean all equipment, and all equipment (including, without limitation, all machinery, vehicles, tractors, trailers, office equipment, communications systems, computers, furniture, tools, molds and goods) owned, used or bought for use in the Debtor's business whether now owned, used or bought for use or hereafter acquired, used or bought for use and wherever located, together with all accessories, accessions, attachments, parts and appurtenances thereto. Notwithstanding the foregoing, "Equipment" does not include: (a) equipment leased from third parties under capital leases obtained by the Debtor in the ordinary course of Debtor's business and disclosed to the Secured Party prior to the date hereof.

"Fixtures" shall mean all fixtures and all goods that are or are to be attached to real property in such a manner that their removal would cause damage to the real property and that have therefore taken on the character of real property.

"General Intangibles" shall mean all general intangibles and all payment intangibles and all intangible personal property of every kind and nature other than Accounts. General Intangibles include, without limitation, all Contract Rights, other rights to receive payments of money, choses in action, security interests, indemnification claims, judgments, tax refunds and tax refund claims, royalty and product rights, inventions, work in progress, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications, permits, licenses, franchises, leasehold interests in real or personal property, rights to receive rentals of real or personal property or payments under letters of credit, insurance proceeds, know-how, trade secrets, other items of intellectual property, goodwill (whether or not associated with any of the foregoing), computer software and guarantee claims.

"Instruments" shall mean all instruments and all negotiable instruments, Member Debt Instruments, certificated securities and any replacements therefor and stock rights related thereto, and other writings that evidence rights to the payment of money (whether absolute or contingent) and that are not themselves security agreements or leases and are of a type that in the ordinary course of business are transferred by delivery with any necessary endorsement or assignment (including, without limitation, all checks, drafts, notes, bonds, debentures, government securities, certificates of deposit, letters of credit, preferred and common stocks, options and warrants).

"Inventory" shall mean all inventory and all goods other than Equipment and Fixtures.

"Proceeds" shall mean all proceeds, and any and all amounts or items of property received when any Collateral or proceeds thereof are sold, exchanged, collected or otherwise disposed of, both cash and non-cash, including proceeds of insurance, indemnity, warranty or guarantee paid or payable on or in connection with any Collateral.

"Receivables" shall mean all Accounts, Additional Revenues, Chattel Paper, payment intangibles and Contract Rights and all Instruments representing rights to receive payments.

"UCC" shall mean the Uniform Commercial Code as in effect in any applicable jurisdiction.

**STATE OF FLORIDA UNIFORM COMMERCIAL CODE
FINANCING STATEMENT FORM**

FLORIDA SECURED TRANSACTION REGISTRY

FILED

2016 Jun 02 10:30 AM

***** 201607764162 *****

A. NAME & DAYTIME PHONE NUMBER OF CONTACT PERSON Pat Davidson, 904-930-4087	
B. Email Address	
C. SEND ACKNOWLEDGEMENT TO:	
Name	James L. Purcell, Jr.
Address	Stoneburner Berry Purcell & Campbell, PA
Address	200 West Forsyth Street, Suite 1610
City/State/Zip	Jacksonville, FL 32202

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - INSERT ONLY ONE DEBTOR NAME (1a OR 1b) - Do Not Abbreviate or Combine Names

1.a ORGANIZATION'S NAME MIAMI CITY BALLET, INC.				
1.b INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
1.c MAILING ADDRESS Line One 2200 LIBERTY AVENUE		This space not available.		
MAILING ADDRESS Line Two	CITY MIAMI BEACH	STATE FL	POSTAL CODE 33139	COUNTRY USA

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - INSERT ONLY ONE DEBTOR NAME (2a OR 2b) - Do Not Abbreviate or Combine Names

2.a ORGANIZATION'S NAME				
2.b INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
2.c MAILING ADDRESS Line One		This space not available.		
MAILING ADDRESS Line Two	CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - INSERT ONLY ONE SECURED PARTY (3a OR 3b)

3.a ORGANIZATION'S NAME BANK OF AMERICA, N.A.				
3.b INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
3.c MAILING ADDRESS Line One DOC RETENTION, NC1-001-05-13		This space not available.		
MAILING ADDRESS Line Two ONE INDEPENDENCE CENTER, 101 N. TRYON ST.	CITY CHARLOTTE	STATE NC	POSTAL CODE 28255-0001	COUNTRY USA

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"Instruments" shall mean all instruments and all negotiable instruments, Member Debt Instruments, certificated securities and any replacements therefor and stock rights related thereto, and other writings that evidence rights to the payment of money (whether absolute or contingent) and that are not themselves security agreements or leases and are of a type that in the ordinary course of business are transferred by delivery with any necessary endorsement or assignment (including, without limitation, all checks, drafts, notes, bonds, debentures, government securities, certificates of deposit, letters of credit, preferred and common stocks, options and warrants).

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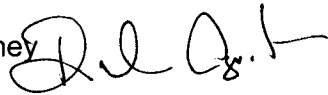
MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Raul J. Aguila, City Attorney



CC: Jimmy L. Morales, City Manager

DATE: July 8, 2016

FIRST READING

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH HUMAN RIGHTS ORDINANCE (ORDINANCE NO. 2010-3669), BY AMENDING CHAPTER 62, ENTITLED "HUMAN RELATIONS," BY AMENDING ARTICLE II, ENTITLED "DISCRIMINATION," BY AMENDING DIVISIONS 1-4, ENTITLED "GENERALLY," "ADMINISTRATION," "REGULATIONS," AND "EXCEPTIONS," BY AMENDING SECTIONS 62-31, ENTITLED "DEFINITIONS;" 62-33, ENTITLED "PURPOSE; DECLARATION OF POLICY;" 62-37, ENTITLED "DUTIES AND POWERS;" 62-59, ENTITLED "INFORMATION ON COMPLAINT;" 62-86, ENTITLED "DISCRIMINATION IN EMPLOYMENT;" 62-87, ENTITLED "DISCRIMINATION IN PUBLIC ACCOMMODATIONS;" 62-88, ENTITLED "DISCRIMINATION IN HOUSING;" 62-88.1, ENTITLED "DISCRIMINATION IN PUBLIC SERVICES;" 62-90, ENTITLED "MUNICIPAL FACILITIES;" 62-91, ENTITLED "MUNICIPAL FUNDS;" 62-111, ENTITLED "EMPLOYMENT;" AND 62-112, ENTITLED "HOUSING;" TO AMEND THE PROTECTED CLASSES WITHIN THE ORDINANCE TO INCLUDE THE FOLLOWING CATEGORIES: ANCESTRY, HEIGHT, WEIGHT, DOMESTIC PARTNER STATUS, LABOR ORGANIZATION MEMBERSHIP, FAMILIAL SITUATION, AND POLITICAL AFFILIATION; AND BY AMENDING SECTIONS THOSE SAME ADDITIONAL CATEGORIES AND TO PROVIDE THAT THE HUMAN RIGHTS ORDINANCE SHALL APPLY TO ACTUAL AND PERCEIVED MEMBERSHIP IN A PROTECTED CLASS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

SUMMARY OF THE PROPOSED ORDINANCE

The Miami Beach Human Rights Ordinance ("HRO") established the Miami Beach Human Rights Committee ("Committee"), which as one of its principle duties recommends to the City Manager and the City Commission legislation that would further the purpose of eliminating

and preventing discrimination in employment and public accommodations in the City. Based upon the Committee's recommendations, the list of classification categories delineated in Section 62-31 of the Code of the City of Miami Beach continues to grow as the Committee evaluates the strength of the City's HRO protections against those afforded to the citizens of other localities. At the request of the Committee, Commissioner John Elizabeth Alemán sponsors this proposed ordinance, here on first reading.

There are two purposes for the proposed ordinance. First, the Committee recommends that the Commission add several new classification categories to the HRO's existing list, thereby curtailing an even broader array of possible discrimination. Second, the Committee recommends that perceived discrimination receive the same consequence as actual discrimination under the Code.

ANALYSIS

The HRO, codified in Chapter 62 of the City Code, declares that "there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of prejudice against one another and antagonistic to each other because of differences of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, or disability." Considering that purpose, the HRO prohibits discrimination on the basis of those delineated categories. Working under the understanding that the existing list is not comprehensive and is not exhaustive, the Committee suggests the proposed ordinance add the following categories to the existing prohibition: ancestry, height, weight, domestic partner status, labor organization membership, familial situation, and political affiliation. It is important to note that the Committee did not imagine these new categories. Rather, they were unearthed as a result of a survey of other cities and political areas.

1. Ancestry: While the HRO already prohibits discrimination on the basis of national origin, ancestry is a condition as to ancestors, genealogical lineage, birth, and familial descent—a status different than national origin, which is concerned with membership of a particular nation of state by origin, birth, naturalization, allegiance, or otherwise. This is a common protection afforded in municipalities across the country.
2. Height and Weight: Because people come in all shapes and sizes (in the same way as they come in all colors, races, national origins, etc.), a prohibition on height and weight discrimination would work to further an atmosphere of accommodation. Further, other cities, including San Francisco, have already included height and weight anti-discrimination provisions.
3. Domestic Partner Status: While the HRO already prohibits discrimination based on "marital status," and even though marriage between any two consenting adults is now legal throughout the nation, there remain many who live as domestic partners who are not covered by the marriage discrimination prohibition.
4. Familial Situation: although the City currently prohibits discrimination on the basis of "familial status," the City does not yet prohibit similar discrimination on the basis of "familial situation;" the former is concerned with discrimination because of a person's role as a caretaker of a minor child/children, while the latter deals with a person's parentage and how and in what circumstances they were raised.
5. Labor Organization Membership: This would prohibit discrimination based on a person's membership or lack of a membership in a labor organization (sometimes called a "trade union"). This protection is already afforded under the National Labor Relations Act, 29 U.S.C. § 158, and the Florida law, Fla. Stat. § 447.03, but no local protection or remedy exists in the City Code.

6. Political affiliation: Political activity, association, and speech are cornerstones of life in this nation, state, and City, and this category would create a local remedy against those who would discriminate on the basis of different social and political beliefs concerning any and all issues before any and all government bodies.

Along with the fresh list of new categories, the Committee recommends incorporating the phrase “actual or perceived” in the HRO. As the HRO currently stands, protection is only afforded to discrimination victims who are, in fact, actually members of the protected classification categories. Inclusion of the word “perceived” looks to extend the prohibition to discriminatory actors who commit intentional conduct against others based on their perceptions, *whether their beliefs are true or mistaken*, concerning a person’s membership in a protected classification category. Thus, the addition looks to bring the HRO more in line with Title VII, creating a more thorough and inclusive set of prohibitions,

ECONOMIC IMPACT

There is no cost to the City of Miami Beach associated with the adoption of this ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH HUMAN RIGHTS ORDINANCE (ORDINANCE NO. 2010-3669), BY AMENDING CHAPTER 62, ENTITLED "HUMAN RELATIONS," BY AMENDING ARTICLE II, ENTITLED "DISCRIMINATION," BY AMENDING DIVISIONS 1-4, ENTITLED "GENERALLY," "ADMINISTRATION," "REGULATIONS," AND "EXCEPTIONS," BY AMENDING SECTIONS 62-31, ENTITLED "DEFINITIONS;" 62-33, ENTITLED "PURPOSE; DECLARATION OF POLICY;" 62-37, ENTITLED "DUTIES AND POWERS;" 62-59, ENTITLED "INFORMATION ON COMPLAINT;" 62-86, ENTITLED "DISCRIMINATION IN EMPLOYMENT;" 62-87, ENTITLED "DISCRIMINATION IN PUBLIC ACCOMMODATIONS;" 62-88, ENTITLED "DISCRIMINATION IN HOUSING;" 62-88.1, ENTITLED "DISCRIMINATION IN PUBLIC SERVICES;" 62-90, ENTITLED "MUNICIPAL FACILITIES;" 62-91, ENTITLED "MUNICIPAL FUNDS;" 62-111, ENTITLED "EMPLOYMENT;" AND 62-112, ENTITLED "HOUSING;" TO AMEND THE PROTECTED CLASSES WITHIN THE ORDINANCE TO INCLUDE THE FOLLOWING CATEGORIES: ANCESTRY, HEIGHT, WEIGHT, DOMESTIC PARTNER STATUS, LABOR ORGANIZATION MEMBERSHIP, FAMILIAL SITUATION, AND POLITICAL AFFILIATION; AND BY AMENDING SECTIONS THOSE SAME ADDITIONAL CATEGORIES AND TO PROVIDE THAT THE HUMAN RIGHTS ORDINANCE SHALL APPLY TO ACTUAL AND PERCEIVED MEMBERSHIP IN A PROTECTED CLASS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach Human Rights Ordinance, codified in Chapter 62 of the City Code, declares that "there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of prejudice against one another and antagonistic to each other because of differences of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, or disability," and that "prejudice, intolerance, bigotry and discrimination and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the very institutions, foundations and bedrock of a free, democratic society"; and

WHEREAS, in view of this policy, the City's Human Rights Ordinance prohibits discrimination in employment, public accommodations, housing, and public services, on the basis of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital status, age, and disability; and

WHEREAS, the City of Miami Beach is a longstanding municipal leader in ensuring the civil rights of its diverse and cosmopolitan population; and

WHEREAS, the City of Miami Beach remains a major temporary destination for visitors of every conceivable individual background and orientation; and

WHEREAS, discrimination continues in many forms; it evolves and is often cloaked by seemingly innocent policies or practicality concerns; and

WHEREAS, City of Miami Beach maintains a constant interest in eradicating discrimination in whatever form it may take; and

WHEREAS, the Miami Beach Human Rights Committee (“Committee”) discussed the types of discrimination currently prohibited by the City’s Human Rights Ordinance and found that discrimination based on ancestry, height, weight, domestic partner status, labor organization membership, familial situation, and political affiliation should be included as protected categories; and

WHEREAS, discrimination of the types delineated by the Committee are unjust and can be personally damaging to the victims of such discrimination, and socially damaging in any community that abides such behavior; and

WHEREAS, ancestry is a condition as to ancestors, genealogical lineage, birth, and familial descent—a status different than national origin, which is concerned with membership of a particular nation of state by origin, birth, naturalization, allegiance, or otherwise; and

WHEREAS, although the City currently prohibits discrimination on the basis of “familial status,” the City does not yet prohibit similar discrimination on the basis of “familial situation;” the former is concerned with discrimination because of a person’s role as a caretaker of a minor child, while the latter deals with a person’s parentage and how and in what circumstances they were raised; and

WHEREAS, political activity, association, and speech are cornerstones of life in this nation, state, and City; and

WHEREAS, the City does not currently explicitly protect against discrimination on the basis of ancestry, height, weight, domestic partner status, labor organization membership, familial situation, and political affiliation, and discrimination on these bases deserves no place in the City and community; and

WHEREAS, one of the most enduring ideas in social psychology is that the subjective experience of social life is informed and moderated by the observance of attributions; this subjective, observational interpretation of attributes, or “perception,” informs comprehension; discrimination is the result of comprehension and intent; thus, even if a person does not actually possesses an attribute, another’s choice to discriminate based on a perception the person does possess that attribute is as deplorable as if the attribute actually existed; and

WHEREAS, the Human Rights Ordinance currently only affords protection to discrimination victims who are, in fact, actually members of the protected classification categories;

WHEREAS, inclusion of the phrase “actual or perceived” looks to extend the prohibition to discriminatory actors who commit intentional conduct against others based on their perceptions, *whether their beliefs are true or mistaken*, concerning a person’s membership in a protected classification category; and

WHEREAS, the Mayor and Commission wish to adopt the Miami Beach Human Rights Committee’s recommendation to prohibit discrimination based upon ancestry, height, weight,

domestic partner status, labor organization membership, familial situation, and political affiliation.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. ENACTMENT

CODE OF THE CITY OF MIAMI BEACH, FLORIDA

CHAPTER 62 - HUMAN RELATIONS

* * *

ARTICLE II. - DISCRIMINATION

* * *

DIVISION 1. - GENERALLY

* * *

Sec. 62-31- Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means that person appointed pursuant to subsection 62-56(a).

Age means the chronological age of any individual who is 18 years or older.

Ancestry means a person's family or ethnic descent or the origin and background surrounding a person's genealogical lineage.

Classification category means each category by which discrimination is prohibited as set forth within section 62-33. These categories are as follows: race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, disability, marital and familial status, or age, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, and political affiliation.

Committee means the City of Miami Beach Human Rights Committee.

* * *

Discriminatory practice means an intentional act that is unlawful and prohibited.

Domestic partnership status means the presence or absence of a domestic partnership and includes the state of being in a domestic partnership, separated, or not in a domestic partner relationship. In this context, the term "separated" includes persons who have previously been a part of a domestic partnership.

Employee means a person employed by or seeking employment from an employer. It does not include any person employed by parents, a spouse or child.

* * *

Gender identity includes actual or perceived sex, and shall also include a person's gender identity, self-image, appearance, expression or behavior, whether or not that gender identity, self image, appearance, expression or behavior is different from that traditionally associated with the sex assigned to that person at birth.

* * *

Entity includes "employee," "employer," and "person."

Familial status means one or more individuals who have not attained the age of 18 years being domiciled with:

- (1) A parent or another person having legal custody of such individual or individuals; or
- (2) The designee of such parent or other person having custody, with the written permission of such parent or other person.

Familial situation means the state of a person's being raised by, or currently living with, a certain number of biological parents, or by a non-biological parent or parents, or without parents, or by any individual or group of individuals who is protected by this chapter.

Family means one or more individuals living as a single housekeeping unit.

Gender identity includes actual or perceived sex, and shall also include a person's gender identity, self-image, appearance, expression or behavior, whether or not that gender identity, self image, appearance, expression or behavior is different from that traditionally associated with the sex assigned to that person at birth.

Height means a numerical measurement from base to top of a human person, but includes an expression of that measurement in relationship to weight, or an individual's unique physical composition through body size, shape, and proportions.

Housing or housing accommodations means any building, structure or portion thereof, or other facility occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof, mobile home, trailer or other facility. However, nothing in this article shall apply to rooms or units in housing containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

* * *

Intersexuality means the condition of either having both male and female gonadal tissue in one individual or of having the gonads of one sex and external genitalia that is of the other sex or is ambiguous.

Labor organization membership means the presence or absence of a person's status, either as a member or non-member, regarding any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Marital status means the presence or absence of a marital relationship and includes the state of being married, separated, or unmarried. The term "unmarried" includes persons who are single, divorced or widowed.

* * *

Person means one or more individuals, partnerships, associations, political subdivisions, labor unions, organizations, cooperatives, mutual companies, joint-stock companies, unincorporated organizations, trusts, trustees, or receivers, legal representatives, for-profit and not-for-profit associations and corporations, and business associations of whatever kind including, without limitation, general partnerships, limited liability partnerships, corporations, limited liability companies, business trusts, and joint ventures.

Political Affiliation means ideological support of or opposition to, membership in, or donation of value to an organization or person which is engaged in supporting or opposing candidates for public office or influencing or lobbying any incumbent holder of public office on any single or number of issues which may be before any governmental branch.

* * *

Sexual orientation means actual or perceived heterosexuality, homosexuality, or bisexuality.

Weight means a numerical measurement of a human body's relative mass or the quantity of matter contained by it, giving rise to downward force, or an individual's unique physical composition through body size, shape, and proportions, and may be influenced by another person's impression of that individual as fat or thin, regardless of the numerical measurement.

* * *

Sec. 62-33. - Purpose; declaration of policy.

In the city, with its cosmopolitan population consisting of people of every race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, and age, some of them who are disabled as defined under section 62-31 hereof, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of prejudice against one another and antagonistic to each other because of actual or perceived differences of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, or disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation. The city finds and declares that prejudice, intolerance, bigotry and discrimination and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the very institutions, foundations and bedrock of a free, democratic society.

The general purpose of this article and the policy of the city, in keeping with the laws of the United States of America and the spirit of the state constitution, is to promote through fair, orderly and lawful procedure the opportunity for each person so desiring to obtain employment, housing and public accommodations of the person's choice in the city without regard to actual or perceived differences of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, ~~or~~ disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation, and, to that end, to prohibit discrimination in employment, housing and public accommodations by any person.

* * *

Sec. 62-37. - Duties and powers.

The committee shall have the following advisory duties, functions, powers, and responsibilities:

- (a) To study, advise, and make recommendations to the city manager and city commission for:
 - 1. Legislation on policies, procedures, and practices which would further the purposes of this article;
 - 2. Developing human relations plans and policies for the city to consider and making investigations and studies appropriate to effectuate the purposes of this article;
- (b) To inform persons of the rights assured and remedies provided under this article, and to promote goodwill, and minimize or eliminate actual or perceived discrimination because of race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, disability, marital and familial status, ~~or~~ age, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation;

* * *

Sec. 62-59. - Information on complaint.

- (a) A complaint of an unlawful discriminatory practice must be in writing, either on a form promulgated by the city administration (and approved by the administrator) or on any paper suitable for a complaint. The complaint shall be signed by the person making the complaint (hereinafter, the "complainant"); shall be sworn to or affirmed; and, at a minimum, shall state the full name and address, of the complainant; the full name and address of each respondent against whom the complaint is made, and who are alleged to have committed the unlawful discriminatory practice; the facts upon which the complaint is based; the classification category or categories of discrimination upon which the complaint is based; and other such information as may be required by the administrator.

* * *

Sec. 62-86. - Discrimination in employment.

It is an unlawful discriminatory practice for an employer to fail to hire or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to

that individual's compensation, terms, conditions or privileges of employment because of such individual's actual or perceived classification category.

Sec. 62-87. - Discrimination in public accommodations.

- (a) It is an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement because of the actual or perceived classification category of any person directly or indirectly to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, that are afforded the other customers, or directly or indirectly to publish, circulate, issue, display, place, maintain, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of actual or perceived membership in any classification category or that the patronage of any person actually or perceived as belonging to any particular classification category is unwelcome, objectionable or not acceptable, desired or solicited.
- (b) The production of or proof of the display or maintenance of any such written or printed notice or advertisement purporting to relate to any place of public accommodation shall be presumptive evidence that such display or maintenance was authorized by the person maintaining and operating such place of public accommodation.

Sec. 62-88. - Discrimination in housing.

- (a) *Because of actual or perceived classification category.* In connection with any of the transactions set forth in this section affecting a housing accommodation, it shall be unlawful for any person, owner, financial institution, real estate broker or any representative of the above to engage in any of the following acts because of the actual or perceived classification category of a prospective buyer, renter, lessee or any person associated therewith:
 - (1) To refuse to sell, purchase, rent, lease, finance, negotiate or withhold any housing accommodation or to evict a person;
 - (2) To discriminate against a person in the terms, conditions or privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith;
 - (3) To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation;
 - (4) To represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation;
 - (5) To refuse to lend money, whether or not secured by mortgage, or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, improvement, repair or maintenance of any housing accommodation or to impose different terms or conditions of such financing or refuse to provide title or insurance relating to the ownership or use of any interest in any housing accommodation;
 - (6) To make, publish, print, circulate, post, mail or cause to be made, published, printed, circulated, posted or mailed any notice, statement or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, rental,

lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation that indicates any discrimination or any intent to discriminate;

- (7) To discriminate in any financial transaction involving real property because of its location, i.e., to "red-line";
- (8) To offer, solicit, accept or use a listing of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental, lease, or the furnishing of facilities or services in connection therewith;
- (9) To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental, lease or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of a person actually or perceived to be a member of a particular classification category will or may result in:
 - a. The lowering of property values in the area;
 - b. An increase in criminal or antisocial behavior in the area; or
 - c. A decline in the quality of the schools serving in the area;
- (10) To make any representations concerning the listing for sale, purchase, rental or lease, or the anticipated listing for sale, purchase, rental or lease of any housing accommodation for the purpose of inducing or attempting to induce any such listing for any of the above transactions;
- (11) To engage in or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest, or create or play upon fear with the purpose of either discouraging or inducing or attempting to induce the sale, purchase, rental, lease or listing of any housing accommodation on any basis prohibited by this article;
- (12) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this article, or to obstruct or prevent any person from complying with the provisions of this article or any order issued hereunder;
- (13) To resist, prevent, impede or interfere with the mediator in the lawful performance of his duties under this article;
- (14) To canvass to commit any unlawful practice prohibited by this article;
- (15) To deny or withhold any housing accommodation from a person on any basis prohibited by this article; or
- (16) To deny any qualified person access to or membership in or participation in any multiple-listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership or participation on any basis prohibited by this article.

* * *

Sec. 62-88.1. - Discrimination in public services.

No individual shall, by reason of actual or perceived race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, marital and familial status, ~~or age,~~ ancestry, height, weight, domestic partner status, labor organization membership, familial

situation, or political affiliation, nor any qualified individual with a disability shall, by reason of disability, be excluded from participation in or be denied the benefits of the public services of the city, or be subjected to discrimination by the city.

* * *

Sec. 62-90. - Use of municipal facilities.

The use of municipal facilities in the city shall be regulated pursuant to the provisions of this section. The purpose and intent of this section is to establish legislative and administrative policies for the nondiscriminatory use of municipal facilities, which shall be defined as any and all city-owned and operated facilities including buildings, parks, fields, and any other facility now or in the future owned, controlled, leased, or operated by the city. All organizations, clubs, and individuals wishing to obtain any fee waiver to use municipal facilities shall confirm in writing as follows:

I [name of organization, club, or person] the [title] of [name of organization or club], certify that I/my organization or club does not discriminate in its membership or policies based on actual or perceived race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, familial and marital status, age, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, political affiliation, or disability.

Sec. 62-91. - Municipal funds.

Municipal funding of organizations or clubs shall be regulated pursuant to this section. The purpose and intent of this section is to establish legislative and administrative policies for the award of municipal funds to organizations or clubs that do not discriminate in their membership or policies. All organizations or clubs wishing to obtain municipal funding shall confirm in writing as follows:

I [name of organization or club] the [title] of [name of organization or club], certify that my organization/club does not discriminate in its membership or policies based on actual or perceived race, color, national origin, religion, sex, intersexuality, sexual orientation, gender identity, familial and marital status, age, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, political affiliation, or disability.

* * *

Sec. 62-111. - Employment.

(a) Notwithstanding any other provision of this article:

- (1) It is not an unlawful discriminatory practice for an employer to hire and employ employees on the basis of that individual's actual or perceived classification category in those certain instances where such actual or perceived classification category is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and
- (2) It is not an unlawful discriminatory practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university or other educational institution or

institution of learning is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society or if the curriculum of such school, college, university or other educational institution or institution of learning is directed toward the propagation of a particular religion. However, this exception will not apply if such institution restricts membership in its organization on the basis of race, color or national origin.

(b) Notwithstanding any other provision of this article:

- (1) It is not an unlawful discriminatory practice for any employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of one's actual or perceived classification category;
 - (2) It is not an unlawful discriminatory practice for an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration or action upon the results, is not designed, intended or used to discriminate because of one's actual or perceived classification category.
- (c) Nothing contained in this article shall be interpreted to require any employer to grant preferential treatment to any individual or to any group because of the actual or perceived classification category of such individual or group, on account of an imbalance that may exist with respect to the total number or percentage of persons of any actual or perceived classification category employed by any employer in comparison with the total number or percentage of persons of such actual or perceived classification category in any community, state, section or any other area, or in the available work force in any community, state, section or other area.
- (d) This article shall not apply to a religious corporation or association, educational institution or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.
- (e) Notwithstanding any other provisions of this article, it is not an unlawful discriminatory practice for an employer to consider an individual's religion when making a decision concerning that individual if the employer demonstrates that the reason for considering that individual's religion is that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

Sec. 62-112. - Housing.

- (a) Nothing in this article shall prohibit a religious organization, association, society or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting or from advertising the sale, rental or occupancy of housing it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons. However, this exception shall not apply if such religious organization, association, society or any nonprofit, charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization restricts membership in its organization on the basis of actual or perceived race, color or national origin; nor shall anything in this article prohibit a private club not in fact opened to the public, which as an incident to its preliminary purpose provides

lodgings it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b) No provision in this article regarding familial status shall apply to housing for older persons.

(1) As used in this subsection, "housing for older persons" means housing:

- a. Provided under any local, state or federal program that the administrator determines is specifically designed and operated to assist elderly persons as defined in the local, state or federal program;
- b. Intended for and solely occupied by persons 62 years of age or older; or
- c. Intended for and occupied by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the administrator shall develop regulations that require at least the following factors:
 1. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons or, if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;
 2. That at least 80 percent of the housing is occupied by at least one person 55 years of age or older per unit; and
 3. The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(2) Housing shall not fail to be considered housing for older persons if:

- a. A person who resides in such housing on or after the effective date of the ordinance from which this article is derived does not meet the age requirements of this subsection, provided that any new occupant meets such age requirements; or
- b. One or more units are unoccupied, provided that any unoccupied units are reserved for occupancy by persons who meet the age requirements of this subsection.

(c) Nothing contained in this article shall preclude the seller, developer, condominium association, lessor, property owner, or that person's authorized agent from setting forth reasonable rules, regulations, terms and conditions pertaining to the sale, lease or disposal of that person's property provided such rules, regulations, terms and conditions are not based on actual or perceived race, color, religion, sex, intersexuality, sexual orientation, gender identity, national origin, age, disability, familial status, ~~or~~ marital status, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation, and provided there is no conflict with the affirmative provisions set forth in this article. Furthermore, nothing in this article shall preclude reasonable rules, regulations, or terms and conditions pertaining to the safe and prudent use by minors of facilities and amenities provided in conjunction with real property.

* * *

SECTION 2. REPEALER.

SECTION 3. SEVERABILITY.

If any section, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Chapter, Article, or Division of the Miami Beach City Code.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall be removed from the Code of the City of Miami Beach, Florida. If applicable, the sections of this Ordinance may be renumbered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriated word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2016

PASSED and ADOPTED this _____ day of _____, 2016.

ATTEST:

Philip Levine, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner John Elizabeth Aleman)

Underline denotes additions.

~~Strike through~~ denotes deletions.

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 7/8/16

City Attorney Date

Condensed Title:

A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Authorizing A Change Order To The Purchase Order Issued To David Mancini And Sons, Inc. (DMSI), Under The 63rd Street Water Main Replacement Project Awarded Under The NJPA Agreement With Gordian Group, Pursuant To Contract FI-Mdsau06-052014-Dms, In The Amount Of \$101,287.58, In Order To Provide Expanded Traffic Control Services For Traffic Flow In The Area During The Execution Of The Work, Of Which \$40,107.58 Shall Be Payable From The Project Contingency, And The Balance Of \$61,180.00 Shall Be Payable From Account 424-2759-069357 Entitled "63rd Street 16" Water Main."

Key Intended Outcome Supported:

Build and maintain priority infrastructure with full accountability. Streamline the delivery of services through all departments.

Supporting Data (Surveys, Environmental Scan, etc): N/A

Item Summary/Recommendation:

The purpose of this project is to replace an existing water main on 63rd Street, from La Gorce Drive to Indian Creek Drive. The existing 16-inch water main has reached its life expectancy of 70 plus years and also has had a history of leaks. The construction project incorporated directional drilling to install the main under the Indian Creek channel, in the vicinity of the draw bridge. It requires an excavation in the median between Collins Avenue and Indian Creek Drive and on Allison Island. The remainder of the work will be open cut with a portion of the water main being suspended from the stationary bridge.

The water main Improvements include installing approximately 1,100 linear feet of 20-inch pipe, 210 linear feet of 12-inch, 280 linear feet of 8-inch, 200 linear feet of 6-inch of ductile iron pipe and fittings, relocation and replacement of one fire hydrant; traffic control and all ancillary and miscellaneous work.

During the construction process and due to the fact that this corridor is one of the main roads that provides access on the north side of the City, the need of additional traffic control has been identified by the Police Department. The Project originally included a standard maintenance of traffic plan and included the use of police control albeit at a reduced intensity. The Public Works Department agreed with the need of additional off duty police and requested DMSI to provide the service as part of the contract.

Based on the construction schedule DMSI has submitted a cost proposal for the services for the duration of the project in the amount of \$101,287.58. Public Works staff has reviewed the cost proposal and considers it reasonable for the services that are being included.

The contingency amount under this contract is \$40,108 that will partially cover the enhanced service level. Public Works is asking to fund the difference in the amount of \$61,180.

THE ADMINISTRATION RECOMMENDS APPROVING THE RESOLUTION AUTHORIZING THE FUNDING OF THE OFF DUTY POLICE SERVICES IN THE AMOUNT OF \$61,180 FOR THE REMAINING OF THE CONSTRUCTION OF THE 63RD STREET WATER MAIN REPLACEMENT PROJECT.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:	Amount	Account
1	\$61,180	424-2759-069357 subject to 7 th Capital Budget Amendment
2		
3		
4		
OBPI	Total	\$61,180

Financial Impact Summary:**City Clerk's Office Legislative Tracking:**

Bruce Mowry, Ph.D., PE – City Engineer

Sign-Offs:

Ast. Department Director JJF	Assistant City Manager/DPW ETC	City Manager JLM
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MIAMIBEACH



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 13, 2016

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING A CHANGE ORDER TO THE PURCHASE ORDER ISSUED TO DAVID MANCINI AND SONS, INC. (DMSI), UNDER THE 63rd STREET WATER MAIN REPLACEMENT PROJECT AWARDED UNDER THE NJPA AGREEMENT WITH GORDIAN GROUP, PURSUANT TO CONTRACT FL-MDSAU06-052014-DMS, IN THE AMOUNT OF \$101,287.58, IN ORDER TO PROVIDE EXPANDED TRAFFIC CONTROL SERVICES FOR TRAFFIC FLOW IN THE AREA DURING THE EXECUTION OF THE WORK, OF WHICH \$40,107.58 SHALL BE PAYABLE FROM THE PROJECT CONTINGENCY, AND THE BALANCE OF \$61,180.00 SHALL BE PAYABLE FROM ACCOUNT 424-2759-069357 ENTITLED "63RD STREET 16" WATER MAIN."**

ADMINISTRATION RECOMMENDATION

The Administration recommends approving the Resolution.

FUNDING

\$ 61,180 424-2759-069357 – 63rd Street 16" Water Main

\$ 61,180 TOTAL

BACKGROUND

The purpose of this project is to replace an existing water main on 63rd Street, from La Gorce Drive to Indian Creek Drive. The existing 16-inch water main has reached its life expectancy of 70 plus years and also has had a history of leaks. The construction project incorporated directional drilling to install the main under the Indian Creek channel, in the vicinity of the draw bridge. It requires an excavation in the median between Collins Avenue and Indian Creek Drive and on Allison Island. The remainder of the work will be open cut with a portion of the water main being suspended from the stationary bridge.

The water main Improvements include installing approximately 1,100 linear feet of 20-inch pipe, 210 linear feet of 12-inch, 280 linear feet of 8-inch, 200 linear feet of 6-inch of ductile iron pipe and fittings, relocation and replacement of one fire hydrant; traffic control and all ancillary and miscellaneous work.

ANALYSIS

On June 10, 2105, the City Commission authorized entering into a National Joint Owners Alliance (NJPA) cooperative contract with the Gordian Group for construction services to replace the 63rd Street Water main. The Gordian Group, as contract administrator, delegated all work under a price quantity contract to David Mancini & Sons, Inc. (DMSI), who has been performing the work.

During the construction process and due to the fact that this corridor is one of the main roads that provides access on the north side of the City, the need of additional traffic control has been identified by the Police Department. The Project originally included a standard maintenance of traffic plan and included the use of police control albeit at a reduced intensity. The Public Works Department agreed with the need of additional off duty police and requested DMSI to provide the service as part of the contract.

Based on the construction schedule DMSI has submitted a cost proposal for the services for the duration of the project in the amount of \$101,287.58. Public Works staff has reviewed the cost proposal and considers it reasonable for the services that are being included.

The contingency amount under this contract is \$40,108 that will partially cover the enhanced service level. Public Works is asking to fund the difference in the amount of \$61,180.

CONCLUSION

The Administration recommends approving the Resolution authorizing the funding of the off duty police services in the amount of \$61,180 for the 63rd Street Water Main Replacement Project.

JLM/ETC/BAM/WRB/JMR

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Work Order Signature Document

NJPA EZIQc Contract No.: FL-MDCAU06-052014-DMS

☐

New Work Order

☒

Modify an Existing Work Order

Work Order Number.: 030803.01

Work Order Date: 06/29/2016

Work Order Title: CMB - PW water main installation Supplemental - Off duty Officer

Owner Name: City of Miami Beach

Contractor Name: David Mancini & Sons, Inc.

Contact: Bruce Mowry

Contact: David Mancini

Phone: 305-673-7080

Phone: 954 605 3982

Work to be Performed

Work to be performed as per the Final Detailed Scope of Work Attached and as per the terms and conditions of NJPA EZIQc Contract No FL-MDCAU06-052014-DMS.

Brief Work Order Description:

The proposed improvement consists of the replacement of a water main from 63rd and Lagorce to Indian Creek Drive.
Off Duty Officer required by the City if Miami Beach.

Time of Performance

Estimated Start Date:

Estimated Completion Date:

Liquidated Damages

Will apply:

☐

Will not apply:

☒

Work Order Firm Fixed Price: \$101,287.58

Owner Purchase Order Number:

Approvals

Owner

Date

Contractor

Date

Contractor's Price Proposal - Detail

Date: June 29, 2016

Re: IQC Master Contract #: FL-MDCAU06-052014-DMS
 Work Order #: 030803.01
 Owner PO #:
 Title: CMB - PW water main installation Supplemental - Off duty Officer
 Contractor: David Mancini & Sons, Inc.
 Proposal Value: \$101,287.58

Sect.	Item	Mod.	UOM	Description	Line Total		
Labor	Equip.	Material	(Excludes)				
Section - 01							
1	01	22	16	00 0002	EA	Reimbursable FeesReimbursable fees will be paid to the contractor for the actual cost, without mark-up, for which a receipt or bill is received. The Adjustment Factor applied to Reimbursable Fees will be 1.0750. The labor cost involved in obtaining all permits is in the Adjustment Factor. The base cost of the Reimbursable Fee is \$1.00. The quantity used will adjust the base cost to the actual Reimbursable Fee (e.g. quantity of 125 = \$125.00 Reimbursable Fee). If there are multiple Reimbursable Fees, each one shall be listed separately with a comment in the "note" block to identify the Reimbursable Fees (e.g. sidewalk closure, road cut, various permits, extended warrantee, expedited shipping costs, etc.). A copy of each receipt shall be included with the Proposal.	\$101,287.58

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING A CHANGE ORDER TO THE PURCHASE ORDER ISSUED TO DAVID MANCINI AND SONS, INC. (DMSI), UNDER THE 63rd STREET WATER MAIN REPLACEMENT PROJECT AWARDED UNDER THE NJPA AGREEMENT WITH GORDIAN GROUP, PURSUANT TO CONTRACT FL-MDSAU06-052014-DMS, IN THE AMOUNT OF \$101,287.58, IN ORDER TO PROVIDE EXPANDED TRAFFIC CONTROL SERVICES FOR TRAFFIC FLOW IN THE AREA DURING THE EXECUTION OF THE WORK, OF WHICH \$40,107.58 SHALL BE PAYABLE FROM THE PROJECT CONTINGENCY, AND THE BALANCE OF \$61,180.00 SHALL BE PAYABLE FROM ACCOUNT 424-2759-069357 ENTITLED "63RD STREET 16" WATER MAIN."

WHEREAS, on June 10, 2105, the City Commission authorized entering into a National Joint Owners Alliance (NJPA) cooperative contract with the Gordian Group for construction services to replace the 63rd Street Water main; and

WHEREAS, June 25, 2015, the Gordian Group, as contract administrator, delegated all work under a price quantity contract to David Mancini & Sons, Inc. (DMSI), who has been performing all services; and

WHEREAS, the water main improvements along 63rd Street is one of the main roads providing access in the north side of the City; and

WHEREAS, during the execution of the project the need for additional traffic control was identified by the Police Department; and

WHEREAS, the Public Works Department agreed with the need of additional off duty police and requested DMSI to include this service as a change order to the underlying purchase order; and

WHEREAS, DMSI has submitted a cost proposal for the services for the duration of the project in the amount of \$101,287.58, a copy of which is attached hereto as Exhibit 1; and

WHEREAS, after evaluation, the Public Works Director has determined that the pricing for the police services requested is consistent with the terms and conditions of the underlying NJPA contract and the terms of the purchase order; and

WHEREAS, the Public Works Director has determined that the cost estimate is a necessary change order to the DMSI purchase order, so as to provide expanded traffic control services for traffic flow in the area during the execution of the work, of which \$40,107.58 shall be payable from the project contingency fund authorized by the City Commission under the Gordian Group contract, and the balance of \$61,180.00 shall be payable from ; and

WHEREAS, Public Works staff has reviewed and considered the cost proposal reasonable; and

WHEREAS the contingencies under this contract in the amount of \$40,108 have partially covered this service and Public Works is asking to fund the difference in the amount of \$61,180.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY

COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby authorize a Change Order to the Purchase Order issued to David Mancini And Sons, Inc. (DMSI), under the 63rd street water main replacement project awarded under the NJPA Agreement with Gordian Group, pursuant to contract FL-MDSAU06-052014-DMS, in the amount of \$101,287.58, in order to provide expanded traffic control services for traffic flow in the area during the execution of the work, of which \$40,107.58 shall be payable from the project contingency, and the balance of \$61,180.00 shall be payable from Account 424-2759-069357 entitled "63rd Street 16" Water Main."

PASSED AND ADOPTED this _____ day of July 2016.

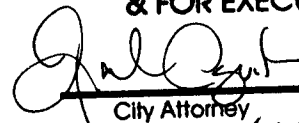
ATTEST:

Rafael E. Granado, City Clerk

Philip Levine, Mayor

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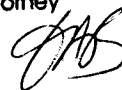
**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

7/7/16

Date



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Condensed Title:

A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Committee, And Approving A Ninety (90) Day Pilot Program For The Televising Of Special Master Hearings For Short-Term Rentals; And Authorizing The City Manager To Direct The Communications Department To Televis The Special Master Hearings Pertaining Solely To Short-Term Rental Violations Cited Pursuant To Sections 142-109, 142-905 And 142-1111 Of The Miami Beach Code Of Laws And Ordinances For The Duration Of The Pilot Program Of Ninety Days.

Key Intended Outcome Supported:

Strengthen Internal Controls To Achieve More Accountability
Enhance External And Internal Communication From And Within The City
Ensure Compliance With Code Within Reasonable Time Frame Emphasizing The Code For Commercial Development

Item Summary/Recommendation:

At the May 11, 2016 Commission Meeting a referral was made to the Finance and Citywide Projects Committee to consider televising City Special Master hearings. The Finance and Citywide Projects Committee held a discussion to consider televising the City's Special Master hearings at its meeting on June 17, 2016.

Televising all hearings would amount to over 300 hours of video and could require additional resources. The Committee recommended that the Special Master hearings involving short-term rental violations of Section 142-109, 142-905 and 142-1111 of the City of Miami Beach Code of Laws and Ordinances be televised on MBTV as a pilot program for ninety days.

The estimated hourly cost to televise on MBTV is \$31.25. Since the number and the length of time of Special Master hearings vary, it is difficult to estimate costs at this time. After the ninety day pilot program, staff can calculate the costs based on actual meetings.

RECOMMENDATION

The Administration recommends adopting the resolution.

Advisory Board Recommendation:

The Mayor and City Commission referred this matter to the Finance and Citywide Projects (FWCP) Committee at its May 11, 2016 meeting and the FCWP passed a motion on June 17, 2016 to recommend that the Special Master hearings involving short-term rental violations of Sections 142-109, 142-905 and 142-1111 of the City of Miami Beach Code of Laws and Ordinances be televised on MBTV as a pilot program for ninety days.

Financial Information:

Source of Funds:		Amount	Account
	1	n/a	
	2		
	3		
OBPI	Total		

Financial Impact Summary: The pilot program will be funded from existing resources. The estimated hourly cost to televise on MBTV is \$31.25. Since the number and the length of time of Special Master hearings vary, the actual costs of this pilot program will be used as a basis to determine the fiscal impact should this program be extended into FY 2017.

City Clerk's Office Legislative Tracking:

Hernan D. Cardeno, Code Compliance

Sign-Offs:

Department Director	Assistant City Manager	City Manager
HDC	SMT	JLM

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 13, 2016

SUBJECT: **A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE (FCWP), AND APPROVING A NINETY (90) DAY PILOT PROGRAM FOR THE TELEVISIONING OF SPECIAL MASTER HEARINGS FOR SHORT-TERM RENTALS; AND AUTHORIZING THE CITY MANAGER TO DIRECT THE COMMUNICATIONS DEPARTMENT TO TELEVISION THE SPECIAL MASTER HEARINGS PERTAINING SOLELY TO SHORT-TERM RENTAL VIOLATIONS CITED PURSUANT TO SECTIONS 142-109, 142-905 AND 142-1111 OF THE MIAMI BEACH CODE OF LAWS AND ORDINANCES FOR THE DURATION OF THE PILOT PROGRAM OF NINETY DAYS.**

ADMINISTRATION RECOMMENDATION

The Administration recommends adopting the Resolution.

BACKGROUND

At the May 11, 2016 Commission Meeting a referral was made to the Finance and Citywide Projects Committee to consider televising City Special Master hearings.

At its meeting on June 17, 2016 the Finance and Citywide Projects Committee held a discussion to consider televising the City's Special Master hearings.

Televising all hearings would amount to over 300 hours of video and could require additional resources. The Committee recommended that the Special Master hearings involving short-term rental violations of Section 142-109, 142-905 and 142-1111 of the City of Miami Beach Code of Laws and Ordinances be televised on MBTV as a pilot program for ninety days.

The estimated hourly cost to televise on MBTV is \$31.25. Since the number and the length of time of Special Master hearings vary, it is difficult to estimate costs at this time. After the ninety day pilot program, staff can calculate the costs based on actual meetings.

CONCLUSION

The Administration recommends that the Mayor and City Commission adopt the Resolution.

JLM/SMT/HDC/RSA/SKS

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE (FCWP), AND APPROVING A NINETY (90) DAY PILOT PROGRAM FOR THE TELEVISIONING OF SPECIAL MASTER HEARINGS FOR SHORT-TERM RENTALS; AND AUTHORIZING THE CITY MANAGER TO DIRECT THE COMMUNICATIONS DEPARTMENT TO TELEVISION THE SPECIAL MASTER HEARINGS PERTAINING SOLELY TO SHORT-TERM RENTAL VIOLATIONS CITED PURSUANT TO SECTIONS 142-109, 142-905 AND 142-1111 OF THE MIAMI BEACH CODE OF LAWS AND ORDINANCES FOR THE DURATION OF THE PILOT PROGRAM.

WHEREAS, the Mayor and City Commission, at their May 11, 2016 Commission meeting, referred to the Finance and Citywide Projects Committee an agenda item that would encapsulate the televising of the City's Special Master Hearings; and

WHEREAS, the Finance and Citywide Projects Committee held its meeting on June 17, 2016, and discussed the televising of the City's Special Master Hearings, in conjunction with those potential issues that could emerge from the televising of these type of hearings; and

WHEREAS, the Finance and Citywide Projects Committee recommendation was limited to televising those Special Master Hearings that involve violations of Sections 142-109, 142-905 and 142-1111 of the City Code (short-term rental cases) pursuant to a Pilot Program for a period of ninety (90) days; and

WHEREAS, the City Administration recommends that the Mayor and City Commission accept the recommendation of the Finance and Citywide Projects Committee, and authorize the City Manager to direct the Communications Department to implement the Pilot Program, which will televise those Special Master Hearings involving short-term rental violations cited pursuant to Sections 142-109, 142-905 and 142-1111 of the City Code for the duration of the Pilot Program.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accepts the recommendation of the Finance and Citywide Projects Committee (FCWP), and approves a ninety (90) day Pilot Program for the televising of Special Master Hearings for short-term rentals; and authorizes the City Manager to direct the Communications Department to televise the Special Master Hearings pertaining solely to short-term rental violations cited pursuant to sections 142-109, 142-905 and 142-1111 of the Miami Beach Code of Laws and Ordinances for the duration of the Pilot Program of ninety days.

PASSED AND ADOPTED this ____ day of _____.

ATTEST:

Rafael Granado, City Clerk

Philip Levine, Mayor

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

City Attorney AB 7/7/16
Date

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